United States
*of* America

# Congressional Record

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

*Vol. 150* WASHINGTON, THURSDAY, JUNE 17, 2004 *No. 84—Part II*

# *House of Representatives*

AMERICAN JOBS CREATION ACT OF 2004—Continued

The SPEAKER pro tempore. The gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

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

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

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

Mr. THOMAS. Mr. Speaker, we are here today because the United States Tax Code is out of sync with the rest of the world. Among our major trading partners, the United States is alone in the world in not using other forms of taxation other than direct income taxation.

Four times the United States defended our ability to create subsidies and, therefore, produce a more level playing field among our trading partners. We had for years refused to reexamine our code more fundamentally and thought that a subsidy mandate would create a more level playing field. Four times, the World Trade Organization said that under the rules of the World Trade Organization, of which we are a founding member, that that would not be permissible.

We are here today because the core of the bill is to repeal the Foreign Sales Corporation extraterritorial tax structure, and it also affords us an opportunity to examine an out-of-date Tax Code.

For those who say all we should be doing is repealing the subsidy, which has been declared against the rules, is to ignore the reason why we put the rules in place in the first place. The reason we did the subsidy was because we were at a disadvantage. It can certainly be argued we should have fundamentally changed our Tax Code back when we did that, but the simple answer is, we did not.

What we are trying to do is correct the errors of our ways, primarily by omission, but occasionally by commission, of not allowing U.S.-based, U.S. workers to put products and services out in the world on a level playing field with the rest of the world. That is what this bill does.

In addition to that, in examining these areas, we discovered portions of the Tax Code that are just flat out unfair. And this is an opportunity; I believe everybody deserves 1 day every 20 years to have a look at the problems they face in the Tax Code. Why? Because small business in certain industries are faced with a discriminatory U.S. Tax Code that puts U.S. small businesses at a disadvantage to foreign businesses.

We are going to hear there is a provision in here about arrows, there is a provision in here about tackle boxes, there is a provision in here about sonar, fish detecting equipment. The reason it is in here is because our code discriminates against American producers.

So not only are we rewriting our laws to be good trading partners and assisting those people who no longer get the subsidy because we are rewriting the laws, we are providing one day every 20 years to examine those portions of the code that make absolutely no sense.

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

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

This is so interesting. The chairman of the committee stands to tell us what this bill is all about, which is labeled the American Jobs Creation Act and, guess what? This is nothing about jobs. He would have us believe that the reason for this legislation is to reform the Tax Code, to bring it up to date. Well, I have heard this type of Republican talk before: we have to pull it out by the roots. That is when we only had thousands of pages in the Tax Code.

But in the middle of the night, they bring us now a bill that is 400 pages long, and probably nobody in the House has even seen it yet. Do not call this a tax bill and do not say that you are reforming the system, because the fact is, if you wanted to really fix what this bill was supposed to do, and that is to remove the subsidy, all you do is remove the subsidy, and you do not give a tax cut for $150 billion, but you pick up $50 billion, which is the amount of the subsidy.

So you can put lipstick on a pig, but you cannot call it a lady. This is a lousy bill. It has nothing to do with reform.

And about this one day that someone is entitled to get their priorities, well, he is 100 percent correct. They sent the word out that every lobbyist in Washington has one day to get his favorite in this bill. It is just unfortunate that the American people did not get their one day to get jobs in this bill.

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

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

I do not rise to defend the honor of Miss Piggy, as the gentleman from New York indicated, and I am anxiously finding a flashlight because, apparently, the gentleman from New York exists in perpetual darkness since he believes night extends for more than 2 years. This bill has been around a long, long time.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. WALSH) for the purpose of entering into a colloquy with the gentleman from Colorado (Mr. BEAUPREZ).

Mr. WALSH. Mr. Speaker, I thank the gentleman from California (Chairman THOMAS) for his leadership on this important legislation.

I understand the Senate version of the FSC/ETI bill includes the ''Green Bonds'' proposal. As the gentleman

knows, the Green Bonds proposal is intended to spur investment in building design and technologies which reduce energy consumption. They promote alternative energy use and improve environmental quality. The Green Bonds proposal also has tremendous job creation potential, as it includes specific minimum job creation requirements for projects.

While the legislation we are about to approve does not include the language relating to Green Bonds, I hope that the House will be able to accept the Senate-passed Green Bonds proposal in conference.

Mr. Speaker, I yield to the gentleman from Colorado (Mr. BEAUPREZ).

Mr. BEAUPREZ. Mr. Speaker, I thank the gentleman for yielding, and I thank him for raising this question.

This is technology, Mr. Speaker, that I am very familiar with, have been for many, many years, and similar to the gentleman from New York, this technology holds great potential for economic development, job and career development within my own district back in Colorado. I similarly hope that the House can favorably entertain inclusion of this provision when we go to conference.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume to thank the gentlemen from New York and Colorado, because without their active participation, the Green Bonds provision would not have been included in the House Energy Conference Report, H.R. 6, but it was, and this House passed it. Therefore, the opportunity to examine it in this conference is available to us. We did not deliberately exclude that measure from this bill, and I look forward to working with the gentlemen as we deliberate with the Senate on this bill.

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

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. STARK), a senior member of the Committee on Ways and Means and ranking member of the Subcommittee on Health.

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

Mr. STARK. Mr. Speaker, very seldom do I find myself almost speechless. If it were not for the rule which appears to gag all of the Members from offering any amendments that would perhaps help this bill and correct the problem which we know as FSC, and it is the first time that I have known that when you take away a subsidy that was not any good, that was improper in the first place, that for some reason you owe business the money that you have been improperly paying them all of these years.

As anybody who has ever had a job in private industry would know, this bill does very little for producers or farmers or small business. It is a return to right-wing radical McCarthyism.

The real serious problem, as I have thought about it this morning, my young 8-year-old son is here, and he is going to be paying for this bill for a long time. It is us elderly white, mostly elderly white males who are doing this to help the lobbyists who have contributed so generously to the Republican campaigns who are going to make these youngsters pay for it, and I think that is an obscenity that will stand long after we have left these halls.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members that it is not appropriate under the rules of debate to introduce guests on the House floor.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Illinois (Mr. CRANE), and to observe that I was worried about a job for the young man, but it is clear that he now has a job being a shield for his father.

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

Mr. Speaker, I am pleased to offer my strong support for H.R. 4520, the American Jobs Creation Act of 2004. This important legislation will end EU sanctions against our exporters, which is harming U.S. workers, and will deliver much-needed tax relief to the manufacturing sector of our economy.

In April 2003, I introduced bipartisan legislation to repeal ETI and return that money to domestic manufacturers. That legislation lowered the corporate tax rate for domestic manufacturing from 35 to 32 percent, and I am therefore quite pleased that $75 billion in direct relief for U.S. manufacturers has been included in this legislation. Of this, $13 billion is devoted to current ETI beneficiaries through important transition relief, and over $60 billion is devoted to rate cuts for manufacturers. Lowering the cost of doing business for this sector of our economy is critical for keeping the playing field level with our foreign competitors and stimulating U.S. job growth.

I would like to thank the gentleman from California (Chairman THOMAS) for working with me to include these very important provisions in the legislation before us today and, at the same time, I am pleased that the legislation also includes significant international tax reforms.

Contrary to the assertion by some, these provisions do not shift jobs overseas. Rather, they allow our multinationals doing business abroad to become more competitive.

□ 1230

This creates jobs here at home and is critically important to the long-term competitiveness of our multinationals engaged in the global economy.

H.R. 4520 also extends the enhanced section 179 expensing for 2 years, making it easier for small businesses to invest in new equipment and grow their businesses, and includes many tax relief and simplification provisions for smaller, subchapter S corporations. This, coupled with the nearly $200 billion in tax relief for small businesses provided in the Bush cuts of 2001 and 2003, is fundamental for helping small business, the backbone of our economy, continue to thrive.

No legislation is perfect; and I, for one, wish we had the resources available to do more. But this is a great first step, and it comes at an important time. If we do not act, EU sanctions against many U.S. goods will continue to grow until they reach 17 percent, further harming U.S. businesses and workers. And we must not allow that to happen.

Mr. Speaker, we have traveled a long road in bringing this legislation to the floor, and I am glad to be here today in support of a great bill. We have two alternatives. We can vote to end EU sanctions against U.S. manufacturers then ensuring that all sectors of our corporate economy continue to flourish, or we can vote to allow sanctions to continue to grow. I suggest that there is only one responsible choice, and I urge my colleagues to vote for the American Job Creation Act.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of Committee on Ways and Means and ranking member on the Subcommittee on Trade.

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

Mr. LEVIN. Mr. Speaker, this bill is called the American Jobs Creation Act. Because of specific provisions in it under truth-in-packaging, it should be called the Overseas Job Creation Act. I point to three provisions. They are technical. They matter.

One, reducing nine foreign tax credit baskets to two, costing $8 billion. And what it would do is make it more profitable, and I urge you to listen to this, to invest in a tax haven overseas than in the U.S. It was President Reagan who put it this way some years ago: this kind of provision ''gives U.S. taxpayers with operations in a high-tax country an incentive to invest in low-tax countries overseas. Low-tax country investments may be more attractive than investments in the United States.''

Secondly, the look-through provisions for payments between related corporations, $3½ billion. What it tells the U.S. multinational is invest your overseas profit other than in the United States and get benefits.

Thirdly, the repatriation provision, $5 billion. It says those profits coming back need to be invested in the United States. There is no definition of what an investment is. They could use the money to close down a factory.

Last year, the gentleman from Illinois (Mr. CRANE), the gentleman from New York (Mr. RANGEL), and the gentleman from Illinois (Mr. MANZULLO), and I introduced a bill to replace FSC that related to manufacturing with

provisions that related to manufacturing, 40 billion for 40 billion. Instead, we have 150 billion, and monies for so-called manufacturing can be used for entities that process hamburgers. This bill makes mincemeat out of good, sound policy. Reject it.

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

In 1986 the reason the basket went from two to nine was for pure revenue to be spent in other areas. And as President Reagan said, it would entice someone to go from a high-tax country to a low-tax country. Shame on us if we are the high-tax country.

Mr. Speaker, I yield 1 minute to the gentlewoman from Washington (Ms. DUNN), a champion in trade around the world.

Ms. DUNN. Mr. Speaker, this is a critically important bill for the constituents I represent. It contains tax relief for domestic manufacturers including producers of software, a provision on which I insisted during committee consideration.

The bill also restores after 18 years a tax deduction for State sales taxes. This relief is long overdue; and it enjoys bipartisan support, very strong here in the House.

The litigation of major provisions goes on and on. It provides a tax rate cut for small business. It updates 40-year-old provisions in the law that overtax U.S. businesses operating overseas. It provides incentives to companies to bring home foreign earnings, invest them here in the United States; and it extends the R&D tax credit, and it provides transition relief for current users of ETI.

I am sure every Member of this Chamber could think of ways he or she would change this bill. But insisting this or that provision and ignoring the larger issue will not bring us into compliance with our international trade obligations under the WTO. And it will not get us closer to providing real tax relief to U.S. workers and businesses.

I urge support of this bill.

Mr. Speaker, I rise in strong support of H.R. 4520 and urge my colleagues on both sides of the aisle to join me in voting for this important legislation.

This bill contains a number of critically important provisions. It brings us into compliance with the WTO and it will remove punitive sanctions on American products that are hurting U.S. sales in Europe and jeopardizing American workers.

Voting against this bill is a sure way to increase foreign tariffs on U.S. products, making it tougher for U.S. workers to compete in the world economy.

The simple fact is this: U.S. workers need this bill. They need the opportunity to compete domestically and internationally.

I urge my colleagues to vote for it.

Mr. Speaker, this is a good bill, a strong bill, a bipartisan bill, and it is a necessary bill.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT), who will explain how in the Congress we find Christmas in mid-June.

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

Mr. MCDERMOTT. Mr. Speaker, I wanted to bring out the symbol for today.

Like the Queen of England, the Republican Party can declare when Christmas comes. Christmas comes on the 17th of June. We were supposed to fix an international trade practice bill here; but every day we delay, American companies have to pay more, and so they finally got around to the other day putting out this beautiful Christmas tree that we have; but instead of offering a solution to the trades problems, they just had a giveaway for all the special interests.

They raised the taxes on the exporters and lowered the taxes on those people who put the jobs overseas. They intended to give $30 billion to oil, tobacco, drug companies; and to get this bill passed, the Republican leadership bought one special interest after another.

Now, they started out with corporate jets. That is this one up here. And then the collection agents. Do you know that they are going to give your tax record to private collection agencies to collect people's debts to the IRS? And also there is tackle boxes here, and there are bows and arrows and sonar devices. And there are two for tobacco here: one, they reduce their taxes, and then they have a buy out. And they were just practically for anybody.

This one is the pharmaceutical companies. Here is Coke and Pepsi. My goodness, they have just gone on and on and on.

Now, my Latin friends say this is Feliz Navidad, but I say it is fleecing America. They are not taking care of small business people. Every one of those. Yes, I know the bow and arrow makers, they are not very big. They are just a little bauble that gets two votes or one vote. Some of these are two votes, and some of these are 25 votes. There are a whole bunch more that I wanted to put on here.

Maybe we could give unemployment benefits to people who have had long-term unemployment. That would be Christmas for them. But, no, we just got special interests. Do not vote for this bill.

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

Mr. Speaker, I tell the gentleman, only my friends on the other side of the aisle would have a 6-inch tree and call it Christmas.

Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I appreciate very much the comments of my friend from Washington State. Apparently, they were not pre-cleared by the ACLU because he referred to a Christmas tree rather than a holiday tree. I am sure he may get phone calls on that.

Be that as it may, rather than focusing on posturing or props or process, let us take a look at results, a little economics 101.

The fact is when you reduce income tax rates, you create economic incentive. You put people back to work. That is the essence of the job bill. One of the biggest taxes, as the chairman pointed out, geopolitically right now as it exists, American manufacturers and farmers are being hit with escalating tariffs. Tariffs is another term for taxes. Right now they are at 8 percent.

Guess what happens because of rising tariffs? The very exports that everyone champions, even those who say they are friends of workers, when you have higher tariffs, you do not have the exports; that costs jobs. Lowering those tariffs will actually create jobs.

We could talk more about the restaurant owners and depreciation and opportunities, but the bottom line is with this bill we create jobs. Vote ''yes.'' Reject the holiday ornamentation and the props and the pandering. Vote ''yes'' on this bill.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS), the conscience of the Congress, a member of the Committee on Ways and Means.

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from New York (Mr. RANGEL) for yielding me time.

Mr. Speaker, I rise in outrage at this irresponsible bill we are voting on today. This bill is so reckless that the majority refused to allow us to vote on a substitute for fear that the debate would show the bill for what it really is. This bill is an overloaded Christmas tree with Christmas gifts for all sorts of special interests, from Chinese ceiling fans, to tackle boxes.

Mr. Speaker, instead of replacing the FSC incentive with much-needed help for United States manufacturers, as the Rangel substitute would have done, this bill provides $5 billion in new tax breaks that actually encourages companies to move their operations offshore. We are bleeding manufacturing jobs, and this bill encourages outsourcing. It is outrageous. It is a disgrace and a shame.

To add insult to injury, this bill will increase our deficit by a minimum of $34 billion over 10 years. But because the gimmicks are designed to hide the true costs, the actual price tag will be much higher.

Perhaps the most outrageous provisions of the bill, though, are the blatant sweeteners and special interest tax breaks designed to buy votes. Not one of them has anything to do with FSC.

These are just a few of the many gifts that have been placed on the tree: a tax break for manufacturers of fish and tackle boxes, a tax break for a maker of sonar devices used in fishing, a tax break for landowners who sell timber from their land, a tax break for makers of bows and arrows, a tax break for whaling, a tax break for alcoholic beverage wholesalers, and a $9 million buyout for tobacco.

Mr. Speaker, the calendar may say June 17; but make no mistake, today is Christmas for specialty interests. I urge my colleagues to do what is right and reject this bill.

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

Mr. Speaker, I just find it amazing that allowing American manufacturers to have a level playing field with foreign manufacturers is called a tax break.

Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. SHAW), a valuable member of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me time to speak in strong favor of this most important bill.

We have heard so much. The gentleman from Georgia (Mr. LEWIS), while very eloquent, was missing the point. The point is this bill does create jobs and the louder one talks does not change that fact.

We have been running corporations offshore in this country because of our tax bills. One has to look no further than Chrysler leaving the United States, one of the Big Three going to Germany because they got a better deal. That is what jobs are: companies and people. Employers create jobs, not the United States Congress. But the United States Congress for years has been taking jobs away and running jobs offshore because of higher taxes and more regulation and then coming to the floor and complaining about the jobs leaving.

But I want to speak about one other part of this bill which is very important. If you are from Nevada, if you are from Texas, if you are from Florida and some other States, this bill has something that is so long in coming, something that we have been working for for so many years; and that part of this bill is for the first time in about 20 years, the American public is going to be able to deduct its sales tax from its taxable income here in this country.

This is huge. If you are from Florida you better think about this. If you vote against the deductibility of sales tax, you are voting against the taxpayers of Florida, Texas, Nevada, Ohio, and other States. We do not have an income tax in Florida to deduct from taxable income tax. So Florida does not get to deduct anything. This is pure fairness. I am proud that it is part of this bill.

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

Mr. Speaker, I do not know why he is so proud of giving these people a break just for 2 years when the Democratic alternative would have made it permanent so they would not have to worry about paying it back in 2 years.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BECERRA), a strong, hard-working member of the Committee on Ways and Means.

□ 1245

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

There are 8.2 million Americans unemployed today, another 4.7 million Americans who have been so frustrated in their search for a job that they have dropped out of the workforce looking for work, and another 4.7 million Americans who cannot find anything more than part-time employment: Close to 18 million Americans today not satisfied with their opportunities to have a full paying job.

There were 2.7 million manufacturing jobs lost in the last 3 years. The share of the population in America that is working today at 62 percent is the lowest it has ever been since 1994. Payroll remains 5.5 million jobs short of the average that we have seen in most economic recoveries since World War II.

What is the response of this House to those conditions of America's trying to work? Billions of dollars of tax incentives for corporations to invest abroad and ship American jobs with that investment. This is a textbook case of how loopholes seep into our Tax Code. Where else but in the world of catering to special interests would it take $150 billion in tax cuts for corporations to remedy a $4 billion problem?

The dirtiest joke about all of this is that while we are giving tax cuts to corporations to send jobs overseas, there is a provision in this bill that actually would have bounty hunters to go out and try to collect taxes from Americans who actually filed a tax return but have not yet been able to pay the perhaps $500 that they still owe the IRS. So now these bounty hunters will be paid 25 percent of what they collect from you and you and you to do the work that the IRS says it could do at 4 to 5 percent of the cost.

That is what this bill is loaded down with. That is why this bill should not win. Democrats had a bill that would have kept jobs here, given manufacturing corporations in America a chance to pay less in taxes if they kept jobs here. We were not given a chance to put that bill on the floor today. That is what we have today.

Who will win? It will not be the interests of the American public, but there are a lot of special interests that are watching very closely. Vote against this bill.

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

The gentleman well knows that no substitute was offered in committee, no substitute was offered in front of the Committee on Rules. You can say it till you are blue in the face, but the Democrats offered no substitute, neither in committee nor in the Committee on Rules.

Mr. Speaker, it is now my pleasure to yield 1½ minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), someone who is extremely interested in American jobs.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman for yielding me the time.

This is plain and simple a jobs bill. If American multinational companies are not competitive, we lose jobs all across this country, in the millions and millions of small businesses that produce parts and products that go abroad, and furthermore, if our multinationals are not strong, we do not produce jobs in America for this reason.

A 10-year study of our multinationals showed that they produced 2.8 million jobs abroad over the last 10 years, but those same parent companies produced 5.5 million new jobs right here in America. Being able to compete internationally is what creates jobs here at home. And it is not just those who export that have to be able to compete internationally; it is everyone because international competition is right down the street at Wal-Mart. So if we are not competitive, we lose jobs.

This bill reforms the structure under which we tax international earnings so we are competitive. That is all it does. We have to repeal one section of our law, so we feed that money back in to level the playing field for our companies so that they can continue to grow more jobs in America than they do abroad and so that they can continue to buy product from the millions of small businesses all across America that supply the goods that go abroad and make us competitive.

This is a jobs bill, and do not forget it for one minute. If we do not pass it, we lose jobs.

Mr. RANGEL. Mr. Speaker, talking about jobs or lack of it, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES), who knows that they do not have the jobs. She is a hardworking member of the Committee on Ways and Means.

Mrs. JONES of Ohio. Mr. Speaker, I want to thank my ranking member and my chairman the gentleman from New York (Mr. RANGEL) for his leadership.

I rise against H.R. 4520, and in Ohio it is truly the place where we know about a loss of jobs. Since President Bush took office, in the City of Cleveland alone we have lost 60,000 jobs. In the State of Ohio we have lost more than 200,000 jobs, many of them manufacturing jobs and many of them service workers jobs, and that was why in the Committee on Ways and Means I offered an amendment and subsequently withdrew it that would have provided benefits to service sector workers that have lost their jobs due to international trade.

The irony is that my amendment was ruled nongermane. H.R. 4520 is overloaded with special interest measures, but my amendment which would have dealt with service workers who are left out of the process was denied an opportunity, but more importantly, if H.R. 4520 is such a good bill, why not allow the Democrats to offer a bill so that our colleagues would have an option? I know they keep saying it was not a substitute, but this is a semantical argument that it is not a substitute. The Democrats had a bill that would have allowed us to do many of the things that are offered in H.R. 4520 but made them permanent.

I smile as I stand here and say this this morning to all the people of America, do not be fooled. Do not get fooled. Do not be fooled. This is not a jobs bill. Tell the Republican leadership you want a J-O-B. You want a J-O-B, not benefits for other corporations.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from California (Mr. HERGER), a colleague and member of the Committee on Ways and Means.

Mr. HERGER. Mr. Speaker, I rise in strong support of the American Jobs Creation Act. It is critical that we pass this legislation today. Many of our exports to Europe are currently facing an 8 percent tariff, and this tariff will rise to 17 percent if we do not act.

This legislation is also critical because it recognizes that American companies are operating in a global economy, and we need a tax system that allows them to compete and win.

This bill makes necessary reforms, but most importantly, this legislation will be a tremendous benefit to U.S. manufacturers, both large and small.

Some have said this legislation does not do enough for small business; yet this legislation is strongly supported by the largest small business group in America, the National Federation of Independent Business.

I urge my colleagues to support this legislation.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. CARDIN), a hard-working member of the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, if Congress was subject to the truth-in-advertising law, we would be held accountable for the title of this bill, American Jobs Creation Act, as misleading the American people. My colleagues can call it what they want, this bill will not create jobs or save jobs in this country. It will cost us jobs, and we know that.

This bill costs $34 billion, according to the Joint Tax Committee, over the next 10 years. It will add to the deficit of the country. That is certainly not going to help our economy, but the truth is it costs a lot more than $34 billion. Because of all the sunsets and the phasing in, this bill costs a lot more than that, hundreds of billions of dollars, which is just going to add to the national debt and cost us jobs.

Mr. Speaker, the tragedy is that we do have a problem with the World Trade Organization that we should correct. Legislation has been offered to do that on a revenue neutral basis, without adding to the deficit and helping U.S. manufacturers so we keep jobs here in America. That has been rejected.

So what do we have? We have a bill that is laden with special interest provisions, hundreds of special interest provisions, that have been given out, that have nothing to do with job creation, have nothing to with the underlying problem with the World Trade Organization and has everything to do with trying to pass a bill to help special interests. Then we have provisions in here that actually harm our country, such as the private contracting of tax collection functions. I cannot think of anything more basic to our government than collection of taxes, and now we want to have private collection agencies dealing with our constituents? I do not want to see that happen.

Mr. Speaker, this bill will not help create jobs. It will hurt us in keeping jobs in America. We should have done better. We should have corrected the problem. Let us go back and do that. I urge my colleagues to reject this bill.

Mr. THOMAS. Mr. Speaker, it is now my pleasure to yield 1 minute to the gentlewoman from Tennessee (Mrs. BLACKBURN), a newer Member of the House but someone who has already made an impact on a portion of this bill.

Mrs. BLACKBURN. Mr. Speaker, I want to thank the chairman for his work on this issue.

As we pass the American Jobs Creation Act today, this is a great day, a great day for the people of Tennessee and Florida and Texas and Washington and Wyoming. There are 55 million people in the U.S. that live in States that do not have a State income tax, that have a State sales tax, and restoring the deductibility of that State sales tax to our Federal income tax filing is important.

It is important in my State. I started working on this issue when I was in the State Senate. This means $1 billion a year to Tennessee's economy, and let me tell my colleagues, Mr. Speaker, that means jobs because Tennessee is a small business State. This will assist us in creating jobs, good, solid, homegrown jobs, that are going to stay right there with us.

I want to thank the gentleman from Texas (Mr. BRADY) and the gentleman from Texas (Mr. DELAY) for their work on this important piece of legislation and especially thank our chairman.

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

I would just like to make it clear that if the Democrats had a chance to have an alternative this provision would have not lasted just for 2 years, as Republicans would have it, but would have been made permanent.

Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. DOGGETT), a hardworking member of the Committee on Ways and Means.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for the time.

When $4 billion in sanctions are imposed for an unjustified tax break declared illegal in an international forum, this House Republican leadership produces this monstrosity of a bill to expand this $4 billion problem to an outrageous $150 billion chunk of corporate welfare.

The title of a lead column in the Business section of the Washington Post captures the essence of this sorry legislation: ''Tax Legislation Only Worthy of the Trash Heap.'' At least one corporate lobbyist was candid in boasting that this bill has ''risen to a new level of sleaze.'' The latest bit of sleaze was added only in the wee hours of this morning, a provision to obstruct an ongoing investigation by the Internal Revenue Service of corporate tax shelters, denying our IRS even the identity of those who were sold abusive corporate tax products.

Once again, with tax breaks for the private jets of corporate executives, for sonar devices for finding fish, for whale hunters, we can see that the big fish do rather well in this bill, while the American people are told one whopper after another.

This is a jobs bill all right. It is a jobs bill for corporate lobbyists who have done rather well. It is also a jobs bill for people in Bermuda and China. Indeed, I think the taxpayers of Bermuda and China ought to be footing the $150 billion price tag for this bill, not the American taxpayers because they appear to be the ones benefiting from this legislation. To those corporations that will dodge their taxes by planting their corporate flags on the shores of Bermuda, this bill gives them a pat on the back.

The Republicans once said they were opposed to this fleeing of American corporations abroad. Now they help buy them first class airfare at the expense of American taxpayers. Certainly, the most appalling provision of all is the $10 billion given to the producers of nicotine, a lethal product that ruins the lives of so many American families. Under this outrageous section, Big Tobacco will get cheaper tobacco, even more tobacco will be grown, and the American taxpayer will be the loser.

□ 1300

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

Mr. Speaker, I believe the gentleman from Texas (Judge DOGGETT) needs to know that provision has been ruled by the courts not to provide attorney/client privilege and that there was no new power granted under that language. And the gentleman from Texas (Judge DOGGETT) knows that when the courts rule, we try to be responsible in that regard.

Former Speaker Tip O'Neill said, ''All politics is local.'' I had said that some areas of the code have not been examined in 20 years or more, and people deserve a day at least once every 20 years to try to correct the horrible, horrible condition of many areas of our economy under our current Tax Code.

Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. MCINTYRE) who wants to talk about ending a subsidy to a particular group of Americans, and this is the first time they have had their day in court in almost three-quarters of a century.

Mr. MCINTYRE. Mr. Speaker, I rise in strong support of H.R. 4520, the

American Jobs Creation Act. In North Carolina, we have known something about losing jobs and we know what it means to be able to gain jobs back. That is why these WTO penalties that we are concerned about are being discussed today in many areas like textile, agriculture, and high-tech.

But my point today is a concern about tobacco. There are some things that are rather disparaging that are simply not true. This is not a Republican or Democratic issue. This is about helping families and helping gain jobs for those who have suffered enough under the only remaining Depression-era Federal farm program in America.

Members are concerned about American government being involved in tobacco. Well, let us get out of the 1930s. This is not a bail-out; it is a buy-out. And if we continue to do nothing, it will be a wipe-out.

What if Members' income was cut by 50 percent in the last 5 years like our tobacco farmers and you do not have control over it? It is done through a formula set by the Secretary of Agriculture, and this fall you may face another 20 to 30 percent cut in income. How are you going to pay for your kids, their education, their health care, their families? Are we going to take these farmers and put them on welfare?

We have to get the American government out of the tobacco business, and we can do that with this buy-out. We are not just paying off farmers, we are giving back to them what the Federal Government has taken from them. There is a Federal property interest in a tobacco allotment. Farmers can put it in deed, lease it, rent it, and that is controlled through the Federal Government.

This would be an opportunity to help our farmers make a decision: Are they going to continue to farm tobacco or get out? This is an opportunity for us to make a decision for the American taxpayer: Will the American taxpayer continue to subsidize tobacco or will we get out of the tobacco business, which so many people want to do?

This is a logical situation to help the American tobacco farmer and their family to be able to have the interest that the Federal Government has taken from them and now controls their income to be able to buy back that interest and then let them make the decision.

Our farmers in our rural regional and State economies have suffered enough. It is time for this uncertainty to end, not only for these families but for the American government's involvement in tobacco. It is also time to give farmers the freedom of choice and get them out from under a government mandate where they have no control over the amount of income they can make.

Let us do right by our farmers and their families. Let this be a win for the farmer, a win for the taxpayer, and a win for the American government.

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

Mr. Speaker, this is the biggest fraud on farmers, and especially tobacco farmers, that I have seen in my 34 years in Congress. Here we have some help allegedly for the tobacco farmers, and those of us on the Committee on Ways and Means could not even discuss it because it is not in our jurisdiction, yet it is in our bill.

A person does not have to be a politician or Member of Congress to know if we are talking about farming and tobacco, we should be talking about the Committee on Agriculture and not the tax-writing committee. This bill has nothing to do with taxes, nothing to do with international sanctions against us. It has everything to do with trying to pick up votes for those people who know that they are facing economic distress in this area.

The right thing to have done was to have it in the Committee on Agriculture, which has jurisdiction and who understands this issue even better than some of the smartest Members on the Committee on Ways and Means.

Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, it is interesting that the sponsor of this bill would mention that all politics is local. I would remind the gentleman that in my State of Mississippi local elected officials are held personally liable for debts they incur while in office. If they spend more money than they can collect in taxes, they are personally liable. I wonder if the sponsor of this bill would be willing to pay his share of the $1,553,114,795,203.56 that his policies have added to the American debt in just the past 3 years?

I wonder how many of the Members who feel so strongly about this bill would be willing to pay their share of the $34 billion it is going to add to our Nation's debt. Do Members really feel that strongly about it? Do Members really think they are doing enough good to stick my kids with their $34 billion bill?

We are at war, and shame on us if we are the first generation of Americans to cut taxes as young Americans are dying on a daily basis. We are at war and we ought to be willing to pay for it and we ought to quit sticking our kids with our bills.

Mr. THOMAS. Mr. Speaker, I yield 2½ minutes to the gentleman from Louisiana (Mr. MCCRERY), the chairman of the Subcommittee on Select Revenue of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Speaker, I thank the gentleman for yielding me this time to talk about what I think is perhaps the most important tax bill we have passed through this House in the last several years.

There has been a lot of talk and rhetoric about how the international tax provisions contained in this bill will ship jobs overseas when in fact just the opposite is the case and just the opposite is supported by the facts, but we do not hear many facts coming from those critics from the bill, we just hear rhetoric. Rhetoric is easy.

Let me give Members some facts. I will start with the fact that 93 percent of all products made overseas by American companies with operations overseas are sold overseas, not made over there and brought back here to be sold in our market to replace part of the market share here in the United States. Those products made overseas by American companies that have affiliates overseas are sold overseas. That should tell Members something. It should tell Members that our American companies who create facilities overseas to make things do so in order to compete in those overseas markets. They want market share over there, and in many cases and in most cases they need those facilities over there to serve those markets.

Another fact, another statistic that is important: 40 percent of all exports by American manufacturers from the United States go to foreign affiliates of those same American manufacturers. In other words, our manufacturers here in the United States are making things here to sell over there to their own foreign affiliates. So if it were not for the fact that American companies had those foreign affiliates overseas, those exports probably would not be sold. Those exports would not be leaving the United States. And all those exports, those products, are made by workers here in the United States.

So those jobs overseas, those plants overseas owned by American manufacturers support jobs here in the United States. Those are the facts. Forget the rhetoric, this bill is about jobs here in the United States. It is the best bill we have had on the floor in a long, long time, and we ought to pass it.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER), our distinguished minority whip.

Mr. HOYER. Mr. Speaker, the other side can say it over and over and over again, but the facts are correct that this is not about jobs here because if it was about jobs here, we could have passed the Manzullo-Rangel bill 6 months ago. We did not. We did not because we wanted to pass a partisan bill.

The Heritage Foundation says, ''There is always a certain amount of grease that is part of getting any tax policy changes through the process,'' but with this bill the Heritage Foundation says that ''the actual policy seems to be secondary to the grease.''

This is a sad day in this House. I have served here for 23 years. This is the worst tax bill that I have seen on the floor of this House. It is the most irresponsible bill. I challenge the Members on that side of the aisle to bring me one editorial, Members will not find it in the Wall Street Journal, Members will not find it out of the Heritage Foundation, one editorial that says this bill is worth passing.

We have been involved in an orgy of self-indulgence. That is how great empires fail, so focused on self and corporate and individual embellishment that they forget about the community, they forget about their country, they forget about investing in their people. They forget about investing in jobs in America.

The gentleman from Illinois (Mr. MANZULLO) is not on the floor, he was just a few minutes ago. He and the gentleman from New York (Mr. RANGEL) and the gentleman from Illinois (Mr. CRANE) had a bill that spoke to jobs in America. This bill does not. Defeat this bill. Be responsible, stand up for America, send this bill back to committee.

Mr. THOMAS. Mr. Speaker, I yield 1½ minutes to the gentleman from Kentucky (Mr. LEWIS) who understands all politics are local, and the Chair appreciates the tremendous work the gentleman from Kentucky has put in in perfecting this bill.

(Mr. LEWIS of Kentucky asked and was given permission to revise and extend his remarks.)

Mr. LEWIS of Kentucky. Mr. Speaker, I rise today to voice my support, my strong support for H.R. 4520, the American Jobs Creation Act of 2004, and encourage my colleagues to vote in favor of this important legislation.

There are over 40,000 tobacco farms in Kentucky alone. Tobacco farming is the primary source of livelihood of tens of thousands of Americans supporting local economies in nine U.S. States. Every tobacco dollar is said to turn over 6 to 7 times in its community.

Under current Federal policy, American farmers lose while farmers in countries like Brazil win. American tobacco farmers simply cannot respond to new market pressures and opportunities while beholden to an outdated government-controlled system.

With this bill, farmers can move beyond tobacco. By ending the quota system, economists anticipate as many as two-thirds of current tobacco farmers would exit the business without increasing taxes or the national debt.

Our obligation as Members of Congress is always to our constituents, not to special interest groups. Including a buy-out provision in H.R. 4520 provides long-awaited relief to American farmers, replacing lost jobs and revitalizing thousands of communities across the Nation who depend upon tobacco for their economic stability.

I commend the gentleman from California (Mr. THOMAS) for his leadership and vision on this issue, understanding the plight of American farmers and working with a bipartisan coalition to include this important provision in the Jobs Creation bill. I urge my colleagues to vote in favor of H.R. 4520.

Mr. RANGEL. Mr. Speaker, I yield 10 seconds to the gentleman from Maryland (Mr. HOYER), our distinguished whip.

Mr. HOYER. Mr. Speaker, there will be some Members who will speak on behalf of this bill, but I have not talked to one of them that thought this was a good bill. They think there are provisions in this bill, as the chairman said, that have not been considered for some time, and they are voting for that provision. Not one Member have I talked to on this side of the aisle or that thinks this is a good bill.

□ 1315

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. MANZULLO) from the other side of the aisle. He is just as much a Republican as I am a Democrat. One thing we have in common is that when we have a problem with the WTO we do not think it is a Republican or a Democratic issue, but we think in a bipartisan way we should work toward trying to resolve that. We have done that. It has been a pleasure working with him.

Mr. MANZULLO. Mr. Speaker, after 1999 all businesses, from normally large chapter C corporations to nontraditional corporations such as sub S partnerships, limited liability corporations and sole proprietorships, have had a tax break for the items that they export. This is the extraterritorial income exclusion, or ETI. The WTO held this tax break illegal because it gives a preferential tax break to exported items, even though Europe does the very same thing through its VAT tax, which is rebated at the border.

The present House bill replaces the ETI tax with a large tax cut for businesses that manufacture in the U.S., similar to what the other body did, except that in this House bill, only chapter C corporations get the tax cut because the House bill tax cut does not apply to other nonchapter C businesses, such as subchapter S, limited liability and sole proprietorships, normally the little guys.

The present House bill has the same problem as my bill did from early last year. That is why I admitted my mistake and abandoned the original Crane-Rangel-Manzullo bill because it, too, limited relief only to chapter C corporations. My district's 2,000 manufacturing businesses are little guys, mostly sub S like the rest of the Nation. I worked with the other body last summer to include the manufacturing benefit to everybody, which is what that body did. The House bill hurts businesses which are presently exporting and which are nonchapter C corporations by causing a tax increase.

SAS in North Carolina, 100 employees, manufactures software, exports a lot. Because it is a subchapter S business and not a chapter C corporation, SAS will have a massive tax increase. Excel Foundry and Machine in Pekin, Illinois, 100 employees, a third of its revenue coming from exports. They just added three engineers and put on an addition. Because they are a sub S and not a chapter C, their tax benefit will end, and they will have a tax increase. National Machinery of Tiffin, Ohio, the last U.S. manufacturer of cold forming machines, exports most of its product. Because they are an LLC and not a chapter C, they will have a massive tax increase. They make a machine that makes bullets.

There are tax cuts for small businesses and depending on how you total them, somewhere between $2.75 billion and $18 billion; and I want to thank everybody for those tax cuts. We appreciate the sub S reform and expensing extension for 2 years. However, the bill totals about $143 billion in gross tax cuts, meaning the large and multinational corporations get a benefit of about 93 percent of the entire bill.

The class warfare between large and small businesses was not asked for by the large companies. They want the smaller manufacturers to thrive because the little guys are the suppliers for the large companies. The supporters of the bill say the nonchapter C people got their tax break when personal income tax rates were reduced for everybody, but everybody knows it costs a lot more to run a small business. As chairman of the Committee on Small Business, I cannot discriminate against small businesses; and I hope the majority of the House will agree with that.

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

Mr. Speaker, now I guess I am a little bit baffled. The gentleman from Illinois, chairman of the Committee on Small Business, was an original cosponsor of H.R. 1769, the Rangel-Manzullo bill. That included a corporate rate cut and specifically limited it to C corps. It did not extend it to S corps and partnerships, and it did not have any of the 11 subchapter S provisions that we include. He is making an appeal for bullets, but he is not supporting bows and arrows.

Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Tennessee (Mr. JENKINS).

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

Mr. Speaker, I strongly support H.R. 4520 for many reasons. Number one, it protects American jobs. In addition, it brings some measure of relief to a segment of our economy that has been under assault for a long period of time. Lawsuits, actions and inactions of our government have put hardworking tobacco farm families in peril and threaten the economic well-being of rural communities in many States. This will help prevent an economic train wreck in those areas that have depended on this crop as a mainstay of their economy longer than we have been a Nation. In addition, it will help, in my honest opinion, to satisfy the mandate of the fifth amendment to our Constitution that no property will be taken without just compensation.

Finally, Mr. Speaker, it will address a great inequity that has existed since 1986. It restores the State sales tax exemption for Federal income tax. I urge my colleagues to support this legislation.

Mr. Speaker. I strongly support H.R. 4520 and I commend the chairman and the Committee on Ways and Means for bringing to the House this legislation to protect American jobs and to bring fairness to a segment of our agricultural economy and a section of our Tax Code.

Assessments totaling billions of dollars are being assessed against exported American goods by the World Trade Organization—threatening tens of thousands of American jobs—unless the Congress responds with remedial measures. This is the remedial action that will provide protection for those jobs for thousands of Americans.

In addition it brings some measure of relief to a segment of our economy that has been under assault for a long period of time. Lawsuits—actions and inactions of our government have put hardworking tobacco farm families in peril—and threaten the economic well being of rural communities in many States. This will help prevent an economic train wreck in those areas that have depended on this crop as a mainstay of their economy longer than we have been a nation. In addition it will help—in my opinion—to satisfy the mandate of the fifth amendment to our Constitution—that no property will be taken without compensation.

Finally, Mr. Speaker, it will address a great inequity that has existed since 1986. In that year the ability to claim as a deduction on our Federal income tax an amount that was paid in State sales tax was taken away. Many states rely on sales tax as their principle source of revenue and do not have a State income tax. State income tax is still a valid deduction on a Federal income tax return—but not State sales tax. H.R. 4520 restores sales tax as a deduction. If H.R. 4520 becomes the law of the land it will alleviate the existence of this inequity that many have never been able to understand.

I urge my colleagues to support this legislation.

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois (Mr. MANZULLO), whom I would like to believe as the chairman of the Committee on Small Business knows more about small businesses than the chairman of the Committee on Ways and Means knows about tobacco.

Mr. MANZULLO. Mr. Speaker, I would like to respond to my colleague, the chairman of the Committee on Ways and Means. I am in favor of a tax cut for all manufacturing entities, from large corporations through to the sole proprietorships. The reason I abandoned my own bill, Manzullo-Rangel-Crane, is the fact that it limited relief only to the large corporations. Only. Only to the large corporations. I cannot support that. What we need is a bill as in the other body that has a manufacturing benefit for everybody who manufactures, not just the large ones.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Texas (Mr. SAM JOHNSON), a valuable member of the Committee on Ways and Means.

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today in strong support of this international tax bill. We worked for the better part of 3 years to get to this point. Everyone in here knows we need it. I want to congratulate Chairman THOMAS for leading us. The bill strikes the right tone in the repeal and replacement of FSC/ETI. This section of the bill was debated long and hard, and I am proud of the deal we have reached on this section. I am also glad to see long overdue international competitiveness reforms are still in this bill.

In addition, I want to mention my strong support for the return of the State sales tax deduction. Since 1986, the residents of seven States, including Texas, that rely upon sales taxes rather than income taxes have been unfairly denied this deduction. From every corner of my congressional district, my constituents are thrilled at the prospect of being given this tax deduction. We like to say no taxes in Texas.

I urge my colleagues to vote for this bill.

Mr. Speaker, I rise today in strong support of this international tax bill. We have worked for the better part of 3 years to get to this point and I want to thank and congratulate Chairman THOMAS for leading us.

The bill strikes the right tone in the repeal and replacement of the "FSC–ETI" benefit. This section of the bill was debated long and hard, and I am proud of the deal we have reached on this section. I am also glad to see long-overdue international competitiveness reforms are still in this bill.

In addition, I want to mention my strong support for the return of the State sales tax deduction. Since 1986, the residents of seven States, including Texas, that rely upon sales taxes rather than income taxes, have been unfairly denied this deduction.

From every corner of my congressional district, my constituents are thrilled at the prospect of being given this tax deduction. We like to say no taxes in Texas.

I urge my colleagues to vote for this bill.

I want to urge caution however on the revenue raisers that are used to offset some of our tax cuts.

I find the revenue raisers in the House bill to have many flaws—large and small. I have been sharing my reservations with the Chairman and other committee members who are likely to be conferees.

My reservations about the House offsets, however, are magnified into grave concerns when I look at the Senate tax increases. In particular, I cannot accept retroactive tax increases and will not support a conference agreement that includes retroactive tax increases.

I am firmly in the camp of those who believe that tax cuts do not need to be offset with tax increases. This is simply money the Federal Government is not collecting that belongs to individuals or companies that have earned the money.

However, to the extent that we are forced to offset some off our tax cuts, I urge the Chairman and other conferees to pick through these offsets so that the "pay-for" is not worse policy than the items we are trying to fix.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I certainly would like to thank the gentleman from New York (Mr. RANGEL) for all the hard work that he has put in on this legislation, and I would like to thank Lou Dobbs at CNN for his constant exposure of the practice of U.S. firms that are outsourcing jobs. These firms are simply exporting American jobs to Third World countries for cheap exploited labor. This bill is a prime example of what Lou Dobbs has been reporting about. This bill is a $140 billion tax boondoggle at a time when U.S. unemployment rates are still too high and at a time when this administration has created historic deficits.

This bill gives $35 billion of the $140 billion tax break that they have created to U.S. firms to invest in jobs overseas, not American jobs, not jobs in your city, not jobs in your hometown, not jobs in your county. The Republicans have become experts at outsourcing jobs. The Republican National Committee and George W. Bush even outsourced their fund-raising solicitation telephone calls to a firm that employs workers in India. This brazen, costly tax giveaway to corporations exporting jobs, 60 percent of whom pay no taxes, is an assault on hardworking Americans who are now collectively paying more taxes than rich corporations. Shame, shame, shame.

The Republicans refused to support targeted U.S. manufacturing credits. These so-called conservative Republicans, who are supposed to be fiscal conservatives, no longer care about the huge United States deficit. They have become the big spenders of the taxpayers' dollars, outsourcing the jobs to foreign countries for cheap labor. These are conservative Republicans piling up this deficit and giving away our American jobs. They no longer care about the joblessness of Americans in their own hometowns.

Shame, shame, shame.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 15 seconds to the gentleman from Ohio (Mr. PORTMAN) who understands the difference between spending and investing.

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

Mr. PORTMAN. Mr. Speaker, I thank the gentleman from California for putting together a good bill that actually does just the opposite of what my friend from California just talked about. It helps American businesses be able to compete in the global marketplace. That will create jobs in this country. And it enables our businesses to be able to compete in an increasingly competitive global marketplace. That is good for America.

I want to commend Chairman THOMAS for crafting a bill that will create jobs here in America. I am particularly pleased that the American Jobs Creation Act includes important and long-needed reforms to the rules under which U.S. businesses are taxed on their global operations. Those reforms are one of the key reasons I support this legislation.

They are a long time in coming, and I want to particularly thank Mr. HOUGHTON for his leadership and perseverance in this area. He has been a champion of tax simplification, and focused much of his attention on the complicated, archaic and outdated international tax rules. On a bipartisan basis, he initiated a comprehensive package of reforms that have been vetted and fine-tuned over a decade. I am pleased many of those provisions are in this bill. These are critical provisions that will determine whether or not our nation can compete in the global marketplace.

Some have tried to characterize the international tax reforms as provisions that would reward U.S. companies that move jobs offshore. The exact opposite is true. These reforms are critical to U.S. manufacturers that make products in the United States and sell those products in the global marketplace. To access global markets, U.S. exporters must compete directly with non-U.S. companies. The international tax reforms in the American Jobs Creation Act begin to level the playing field between U.S. companies and their foreign competitors. They are necessary to protect and grow U.S. manufacturing jobs in export industries. Ninety-six percent of the world's consumers are outside the United States. Without markets in which to sell their goods, U.S. companies cannot provide U.S. jobs to manufacture those goods. Companies with global operations provide over half of all U.S. manufacturing jobs. Suppliers who depend on those multinational companies to buy their products provide many more U.S. manufacturing jobs.

Mr. Speaker, I want to mention two specific reforms that are included in this bill. The first, dealing with interest allocation, would eliminate a fundamental distortion in the U.S. tax law that results in double taxation of U.S. taxpayers that have operations abroad. Currently, we tax corporations on their worldwide income, but allow a foreign tax credit against the U.S. tax on foreign-source income. The foreign tax credit limitation applies so that foreign tax credits may be used to offset only the U.S. tax on foreign-source income and not on U.S.-source income.

In order to determine the foreign tax credit that can be claimed, expenses must be allocated between U.S.-source income and foreign-source income. These allocation rules cause a disproportionate amount of U.S. interest expense to be allocated to foreign-source income—which in turns reduces the foreign tax credit. This double taxation makes it more difficult for U.S. companies to compete in the global marketplace.

Perhaps the most outrageous aspect is the fact that this double taxation makes it more costly to build factories in the United States. Only our own U.S. companies are facing this distortion. Foreign corporations making an investment in the United States do not suffer double taxation. That is a perverse result. H.R. 4520 would correct this.

Another key international reform is the reduction in the number of foreign tax credit limitation baskets. It is a matter of simplification, fairness and U.S. jobs. The current basket structure is a major source of complexity and inefficiency in the U.S. international tax rules. It requires a U.S. company to divide its business income earned outside the U.S. into at least two, and perhaps many more, baskets. Thus, every company with global operations must characterize and allocate each dollar of its business income—on an item-by-item basis—to one of the nine baskets. The company must then associate every item of expense incurred everywhere in the world to one of the nine baskets. The company must then go through the same exercise for every dollar of tax paid to any foreign government. That does not make sense. No other country in the world requires anything approaching this level of complexity.

Reducing the number of foreign tax credit limitation baskets is also a matter of fairness. Some U.S. global companies do not face the complications caused by the separate baskets simply because they do not engage in any financial services businesses or because they engage in those businesses exclusively. U.S. companies that do both should not be disadvantaged. Finally, it's a matter of U.S. jobs. For many companies, creating one active business basket will rescue the U.S. tax on exports. The export of U.S. manufactured property typically gives rise to foreign-source income that is not highly taxed. If credits attributable to other types of business income can be used to reduce that tax burden further, those exports will be more competitive in the global marketplace. That means more jobs here.

Mr. Speaker, our international tax system needs to be changed to reflect today's economy. It's time to simplify these taxes to make U.S. companies more competitive and to create more jobs here in America.

Mr. RANGEL. Mr. Speaker, it is my pleasure to yield 1 minute to the gentlewoman from California (Ms. PELOSI), the leader of the minority and a person that has been very sensitive to the necessity and the creation of jobs for all Americans.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Mr. Speaker, today our country is at a crossroads, and this debate on the floor clearly defines the choice that we have to make. The gentleman from New York (Mr. RANGEL) at that crossroads offers us a path to expand opportunity in our country and to grow community. The gentleman from New York, as we make this important decision, knows that nothing less is at stake than our technological, industrial, and manufacturing base. The path that the gentleman from New York will take us down is one that will stop the hemorrhaging of U.S. jobs overseas. The gentleman from New York will strengthen our base. That is a decision we have to make. Are we going to strengthen that base, which is so essential to our national security, so essential to job creation in our country? Or are we going to abandon it? The gentleman from New York strengthens it. The Republican proposal abandons it.

But I have to give the Republicans credit, I really have to give them credit, because they are consistent. They are consistently the handmaidens of the special interests at the expense of the public interest and the public good. Every opportunity they get to bring legislation to the floor, we see the difference between the Democrats and the Republicans in that regard. That is most unfortunate. Because people across our country are suffering from job loss, from uncertainty in their lives, from their communities dissolving because businesses are leaving and what that means to America's families and America's communities. That is most unfortunate.

The gentleman from New York on the other hand again takes us to a place which strengthens community and strengthens and expands opportunity. We have to view what the Republicans are doing within the context of their reckless economic policies. Here they come to the floor abandoning the American worker at a time when the Republican reckless policies have produced the worst job loss since Herbert Hoover. No President of the United States since Herbert Hoover has lost jobs in office, but these Republican policies have produced those losses. It has to be viewed within the context of, again, that uncertainty in American life. How sad.

The gentleman from New York's proposal should be viewed in the context of a Democratic proposal to take the initiative on outsourcing, a proposal that says we must have innovation to create the jobs of the future, we must have education to produce the workforce of the future, and we must have job creation using the Tax Code that will reward businesses that stay here, create jobs here, and maintain jobs in the U.S.; and that is the distinct difference between what the Republicans are proposing and what the gentleman from New York is proposing today.

□ 1330

Unfortunately, because the Republicans are once again afraid of ideas, they would not allow the gentleman from New York's (Mr. RANGEL) proposal to come to the floor. They would not allow a substitute to be brought to the floor so we could have a fair airing of these different visions of America, because they are two different visions of America.

Instead, the gentleman from New York (Mr. RANGEL) is confined to a motion to recommit, a parliamentary instrument that gives him only a few minutes to present his case. But his case is a clearly distinctly different one from the Republicans.

We are talking about two different visions of America. The gentleman from New York's (Mr. RANGEL) is about supporting American values, of expanding opportunity again through innovation, education, using the Tax Code for job creations, rewarding those who keep jobs here in the U.S. It recognizes the reality of the global economy and wants to make the U.S. manufacturers the most competitive in the world with the most productive workers, the U.S. workers, in the world.

So I thank the gentleman from New York (Mr. RANGEL) for his sense of responsibility to the American worker,

to the American economy, for his sense of responsibility that we all have to make the future better and not have an erosion of jobs in our country but of an enhancing of opportunity. And I thank him for what he is doing as far as a sense of communities is concerned because that is a strong American value that is being seriously undermined by again the erosion of our manufacturing base and what that does to communities across the country.

So I urge my colleagues as they stand at this crossroad to choose the gentleman from New York's (Mr. RANGEL) vision of America. They can do so by supporting his motion to recommit. They can do so by rejecting the Republicans' ill-conceived legislation and voting ''no'' on final passage.

Mr. THOMAS. Mr. Speaker, I request respectively that I have the same 1 minute to be able to yield to the gentleman from Florida, a member of the committee.

The SPEAKER pro tempore (Mr. LATOURETTE). With all due respect, the Chair has historically granted the courtesy to the Speaker, the majority leader, and the minority leader to conclude their observations, and the Chair provided the same courtesy to the minority leader.

Mr. THOMAS. Mr. Speaker, I understand 1 minute was yielded, and I just respectfully ask for 1 minute to the gentleman from Florida as was done on the other side. That is all.

The SPEAKER pro tempore. The Chair will recognize the gentleman from Florida (Mr. FOLEY) for 1 minute.

Mr. FOLEY. Mr. Speaker, I never thought I would see the day on this House floor that Democrats would criticize and belittle American workers making tackle boxes and bows and arrows, hard-working citizens. They may not be as elegant as George Soros or as wealthy, but they work hard.

The very simple issue is a tackle box made in America has an excise tax; a tackle box sent from China does not. So I guess their inference is keep jobs in China, do not worry about us.

I never thought I would see the day when the Democrats would criticize a corporation like Tyco that has thousands of American workers, hard-working citizens in our community and they criticize them and call them unpatriotic, but they get up on the floor and start worrying about protecting people that owe the taxpayers money. They are afraid of collecting taxes that are due the United States Treasury. This is a perverse sense of arguments that really is almost laughable.

We have got great provisions in this bill. We have got important provisions in this bill. We have got things that will make the economy work, leasehold improvements, faster, accelerated depreciation. So they can crow all they want about this, but it is a jobs bill.

It is a fair bill, and we urge its adoption.

Mr. RANGEL. Mr. Speaker, I ask how much time is remaining?

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) has 2 minutes, and the gentleman from California (Mr. THOMAS) has 3¼ minutes.

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

Mr. THOMAS. Mr. Speaker, I yield 30 seconds to the gentlewoman from Guam (Ms. BORDALLO) for a colloquy.

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

The Senate has included a provision in their version of this legislation that uses an offset derived from closing a loophole in residency requirements for filing taxes in the U.S. Territories to fund Green Bonds.

Given that this issue has been addressed by the House in other legislation, I hope that the House will take the position that this offset should be used instead to help the U.S. Territories with the unfunded federal mandate of the earned income credit, and I hope he can help us with this provision.

Mr. THOMAS. Mr. Speaker, will the gentlewoman yield?

Ms. BORDALLO. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I tell the gentlewoman, a Delegate from Guam, and the gentlewoman from the Virgin Islands I would be pleased to work with them in conference to try to solve this problem for the Territories.

Ms. BORDALLO. Mr. Speaker, I thank the gentleman for his response.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. RYAN), a very valued member of the committee.

Mr. RYAN of Wisconsin. Mr. Speaker, let us look at what this bill is all about. What we do when our companies go overseas to compete, to sell goods and services, to create jobs here at home and sell overseas, they pay two taxes. Our foreign competitor countries pay one tax. When an American company sells a good and service overseas, they pay the U.S. tax and the foreign country tax at the same time. When our foreign competitors compete against us, they pay one tax. We are double taxing American jobs and American operations overseas.

So in replacing this current tax policy we have which goes to ½ of 1 percent of American manufacturers, we are giving a tax rate reduction for all American manufacturing corporations on what they produce in America, and we are removing this double tax so when we operate overseas by selling goods and services overseas to create jobs here at home, we are not tying one hand behind our backs.

We are pushing jobs overseas with the American Tax Code we have today, and this bill corrects that problem. This protects jobs, and this is a good bill that has to pass because we have to get rid of these tariffs. I urge adoption of this legislation.

Mr. THOMAS. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BRADY), who has been a champion for something that is extremely important to his constituency.

Mr. BRADY of Texas. Mr. Speaker, I rise in strong support of this measure. My older brother is a computer salesman in Houston, Texas, and when he and his American colleagues try to sell their American products overseas, they find they have an anchor around their neck. It is the American Tax Code. It is so outdated that it really costs us American jobs and American workers.

This bill changes that. It gives us a chance to compete overseas, and we help local manufacturers build and local farmers grow and local companies sell by lowering their tax rates so they can hire new workers, so they can buy new equipment, so they can compete wherever they choose to be sell.

This provision also includes a sales tax deductibility to help families afford clothes and cars and tires, and all that adds up over the years. It allows taxpayers in each State to choose the highest of their State income or their State sales tax. It is a direct economic boost to families to help them afford it. It is very important to States like Texas, which will capture almost, I think, $1 billion for families through this, and it provides a measure of fairness.

We are pushing for permanency. That will come. But this is a major victory for sales tax States.

The SPEAKER pro tempore. The Chair would advise the gentleman from California (Mr. THOMAS) has 3¼ minutes remaining, and the gentleman from New York (Mr. RANGEL) has 2 minutes.

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

It is abundantly clear that the majority will succeed in passing this bill not because the bill is good but because they have succeeded in reaching out to other people and giving them gifts to be putting on the tree under this Christmas tree bill. In other words, we call it buying votes.

But I would ask the seller to beware and the buyer to beware because when some of these gifts are opened, they will find the boxes empty. Our beleaguered tobacco farmers will find that there will be a sign there: We do not have the money we promised, go to Appropriations; we do not have the regulations, go to Commerce; we do not have the jurisdiction, go to Agriculture. They will find that when they take a look at this bill and they are looking for jobs, there is going to be a sign there: Take a flight overseas. That is where the jobs are going to be.

So I am suggesting that even though they may be successful in winning this, they are not winning the minds and the hearts of the American people, who know that they have denied the minority an opportunity to say that we have a better idea in order to do these things.

Mr. Speaker, I yield 30 seconds to the gentleman from California (Mr. WAXMAN).

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

I include my statement in the RECORD, especially in opposition to the giveaway of taxpayers' dollars, the money that is going to go to those who hold quotas for big tobacco.

I am here today to express my strong opposition to a $9.6 billion dollar taxpayer-funded tobacco bailout that has been slipped into unrelated legislation at the 11th hour. This proposal undermines public health, fleeces taxpayers, and embarrasses Congress.

We have learned today that Americans reject this bailout by an eight to one margin. It is no surprise why. The bailout is a massive giveaway to Big Tobacco. The quota program keeps prices of tobacco leaf high. By ending the program, the legislation would cause the price to collapse. The result would be windfall profits for cigarette manufacturers. An Agriculture Department economist has estimated that Big Tobacco would pocket $15 billion dollars in profit over 14 years. This profit could then be used to lower prices and addict more children.

The public health impact of this proposal is reason enough to reject it. But there's more. The proposal is also a shameless raid on the Federal treasury. It is a no-stings-attached $9.6 billion dollar cash transfer from taxpayers to tobacco growers. There is not even a guarantee that anyone will stop growing tobacco.

Other farmers do not get this kind of treatment. Nor do factory workers, service employees, or anyone else that I know. It does not make any sense for the taxpayer to write checks to tobacco growers and not expect anything in return. Even newspapers in tobacco-growing regions have objected to this proposal.

An idea this bad and unpopular could never pass the House in an honest, up-or-down vote. That's why the Republican leadership has refused to permit a vote on the bailout.

Taxpayers deserve not to be fleeced. And parents need our help keeping their kids from becoming addicted to tobacco. But we are doing just the opposite by passing a massive giveaway to Big Tobacco. All we are asking is for the Republican leadership to schedule a vote on this proposal and let democracy take its course.

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

I am suggesting if this bill was as good as some of you are saying that it is, you would not have to come on this side of the aisle and offer promises that you know you cannot fulfill in conference and you know you cannot fulfill because you do not have jurisdiction. There will come a time that we are going to say when you call it a jobs bill, at least it should mean jobs for United States citizens and not jobs for foreigners.

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

Perhaps the gentleman is not aware that the gentleman from Virginia (Mr. GOODLATTE), chairman of the Committee on Agriculture, and the chairman of the Committee on Ways and Means have exchanged letters on questions of jurisdiction as is often done. Also, I guess the gentleman is expressing clearly the current attitude of the minority, and, sadly, it is different than it used to be. What happened to the can-do attitude that Americans always exhibit?

It seems to me after 20 years, somebody ought to get 1 day to take a look at the fact that when he was in the majority, if one were in a State that had a sales tax and they rented, they got nothing. After 65 years people want an end of subsidy. Why not? Why not allow U.S. aero manufacturers to be treated the same as foreigners? If someone has new technology, why not, not punish them with a different tax system?

Mr. Speaker, I will place in the RECORD the Statement of Administration Policy which says ''The administration urges the House to pass H.R. 4520 promptly.'' And I would urge the House to do the same.

STATEMENT OF ADMINISTRATION POLICY

H.R. 4520—AMERICAN JOBS CREATION ACT OF 2004

The Administration supports foreign sales corporation/extraterritorials income (FSC/ETI) legislation that reforms the tax code, removes the underlying reason for the tariffs that have been imposed on American exports by the European Union (EU), and further advances the competitiveness of American manufacturers and other job creators.

The Administration urges the House to pass H.R. 4520 promptly. If Congress does not act to replace the current FSC/ETI provisions in the tax code, then the tariffs that were imposed by the EU on March 1st will inflict an increasing burden on American exporters, American workers, and the overall economy. To support the continued strengthening of our economy and to create more jobs, Congress should act now to end the threat posed by these tariffs and to promote the competitiveness of American manufacturers and other job-creating sectors of the U.S. economy. The Administration looks forward to working with the conferees on this legislation to move it toward budget neutrality, and to enacting legislation that removes the threat of escalating EU sanctions and encourages economic growth and job creation at home.

Mr. STARK. Mr. Speaker, I rise today in strident opposition to H.R. 4520 the so-called "Jobs Creation Act." This bill is a sham and a disgrace—and everybody knows it. Repealing the extraterritorial income (ETI) regime is absolutely necessary to avoid retaliatory duties imposed by the European Union, but replacing that regime with unnecessary corporate tax cuts, and including extraneous provisions that have no business in a corporate tax bill, is ludicrous.

We have known for years that tax systems benefiting exports are clearly prohibited under our international trade agreements. Now we are faced with growing duties on certain exports, which hurt manufacturers and put American jobs in jeopardy. A bill to put the United States in compliance with World Trade Organization trade laws has been turned into a Christmas tree of special interest give-aways. By reducing from nine to two the number of foreign tax credit baskets, foreign controlled subsidiaries of U.S. corporations will have new tax shelters including domestic companies to move even more jobs overseas. During this jobless economic recovery, we cannot afford to give corporations even more incentive to ship jobs offshore. I'm appalled that such a bill would even be considered on the House floor.

The Republicans have always claimed to be fiscally responsible, but this bill is one of the most fiscally irresponsible pieces of legislation I have ever seen. According to a February GAO report, on average, 61 percent of all U.S. controlled corporations reported no tax liability between 1996 and 2000. When nearly two-thirds of U.S. corporations already have no tax liability, it is preposterous that we would reduce the top corporate tax rate from 35 to 32 percent at an estimated cost of over $63 billion over the next ten years. It would only cost $50 billion to make corporations whole after the loss of the ETI exclusion, but the Republicans are reducing corporate tax revenue by another $29 billion with these new rate reductions.

Fiscal irresponsibility surrounding the ETI exclusion is reason enough to vote against this bill, but H.R. 4520 goes even further, adding a total of $34 billion to the national debt through a litany of unnecessary tax breaks. For example, the bill would allow foreign controlled corporations to move income back to the U.S. with a one time 85 percent deduction for that foreign income. This provision would cost more than $3 billion over ten years, and rewards corporations who have moved jobs overseas in the past. In addition, the reduction of foreign tax credit baskets from nine to two categories will decrease revenue by almost $8 billion during the next 10 years. These provisions and many others mortgage the future of our economy and create an enormous tax burden for our children and grandchildren.

Even if the American Jobs Creation Act merely repealed the ETI exclusion and replaced it with fair tax breaks for domestic production, I could not support this bill. Why? Because it contains so many blatant and shameful provisions that have no business being in a tax bill! The Republican leadership refused to write a bill that could garner bipartisan support, so they tossed in these provisions to buy members votes. This is not democracy. This is a Republican House bowing to the power of corporate America and doing whatever it takes to get this ridiculous piece of legislation passed.

The most egregious portion of this legislation is a dangerous buyout for the tobacco industry that would cost $9.6 billion dollars, most of which would line the pockets of large tobacco manufacturers like Phillip Morris. The tobacco buyout is nothing more than an election year bribe to enlist southern Democrats' votes on a bill they would otherwise be unlikely to support. Just recently the Surgeon General released a report saying that tobacco causes diseases in "nearly every organ of the body." Instead of using this opportunity to allow the FDA to regulate tobacco, Republicans are giving a huge windfall to the tobacco industry while doing nothing to reduce tobacco production and improve public health.

Finally, the Republicans have thwarted the democratic process by refusing to allow the Democrats an amendment in the nature of a substitute for this bill. Are the Republicans afraid that the bipartisan approach that passed with flying colors in the Senate might actually have enough votes to pass in the House? My friend and colleague Mr. RANGEL has been working on a bipartisan approach to solving the FSC/ETI problem for years. But we won't have the opportunity to vote on that proposal today because the Republicans don't want anyone to compare our fair and responsible

alternative to their unfair, irresponsible corporate tax break grab bag.

The so-called American Jobs Creation Act does not create jobs. Instead, it creates new incentives for U.S. corporations to send jobs overseas. The fiscal irresponsibility of adding another $34 billion to the national debt over the next 10 years while the economy is trying to recover from recession is inconceivable to me. Finally, the extraneous provisions in this bill are mere gifts to Republican friends. This bill is a disaster for the American people and our tax code. Republicans should be hanging their heads in shame—but Republicans have no shame, as this bill clearly shows. I strongly urge all my colleagues to vote against H.R. 4520.

Mr. HOLT. Mr. Speaker, today I rise to express my disappointment that the American Jobs Creation Act (H.R. 4520) includes a provision that grants the tobacco industry a $10 billion buyout but does not grant the Food and Drug Administration the authority to regulate tobacco products.

The consequences of tobacco use are disturbing. Smoking-related illnesses claim an estimated 430,700 American lives each year. Smoking costs the United States approximately $92.2 billion annually in health-care costs and lost productivity. It is directly responsible for 87 percent of lung cancer cases and causes most cases of emphysema and chronic bronchitis. Spit tobacco and other smokeless tobacco are not safe alternatives. They can lead to tooth decay and loss, gum disease and oral cancer.

Dispite the enormous risks to tobacco—which is the most deadly of all consumer products—the Federal agency that is most responsible for protecting the public health is powerless to effectively regulate this product. In 2000, the Supreme Court explicitly ruled that the FDA does not have the authority to regulate tobacco products and that it is the responsibility of Congress to provide the USDA with this authority. Congress cannot wait any longer to act on this matter.

Many of my colleagues have fought hard to reach a compromise that will give the proper authority to the FDA to regulate tobacco products without needlessly impeding on the tobacco industry's right to produce and sell its product. Unfortunately, the legislation we are considering today squanders an opportunity to couple a tobacco buyout measure with improving public health. Even more disheartening than this missed opportunity is the sad reality that a bargaining tool has been removed from the table and our ability to pass legislation providing the FDA with the regulatory authority it needs has been jeopardized.

I urge my colleagues to vote against this bill and to pass legislation that will allow the FDA to carry out its mission to ensure the safety of products consumed by the public.

Mr. UDALL of Colorado. Mr. Speaker, Congress definitely needs to respond to the retaliatory tariffs imposed on American exports because of the World Trade Organization's rulings addressed by this bill.

But, we do not need to pass the bill as it stands—in fact, we shouldn't.

The bill is unbalanced and excessive. It includes provisions that could provide new incentives for American companies to move overseas. I am concerned that it could allow companies to simultaneously outsource much of the work needed to make a product and at the same time benefit from a tax break for ''domestic production.''

The bill is unduly tilted toward large companies rather than the small businesses that are the source of most jobs in our country. It also includes billions of dollars worth of new narrow special-interest tax breaks, as well as other provisions that supposedly will raise revenue to offset the corporate tax incentives. Those offsets include provisions for outsourcing IRS debt collection, which I think is a bad idea, and creating additional paperwork for charitable contributions.

Of course, the bill also includes desirable provisions. If they stood alone, or were part of a bill that otherwise was acceptable, I would be happy to vote for the legislation. And I did support the motion to recommit, which would have greatly improved the bill.

If the motion to recommit had been adopted, the result would have been to provide an incentive to manufacturers to keep jobs in the United States by reducing corporate tax rates for domestic production by 3.5 percent.

The motion to recommit also would have removed the provisions that provide incentives to move jobs overseas and the targeted special interest provisions. It would have provided better treatment for small businesses, farming cooperatives, and domestic manufacturers.

At the same time, the motion to recommit would have retained such desirable provisions as those extending small business expensing, the research and development tax credit, and renewable energy credits as well as the same temporary foreign income repatriation provisions as those in the Senate-passed version of this legislation.

Unfortunately, the motion to recommit was not successful, and so I cannot support this bill in its present form.

I expect that a conference committee will be appointed to resolve differences between this bill and corresponding legislation passed by the Senate. I hope that this will result in a revised and improved version that deserves enactment.

Mr. BALDWIN. Mr. Speaker, many months ago, Congress was tasked with replacing a $5 billion-a-year export subsidy for domestic manufacturers that was deemed illegal by the World Trade Organization. At the time, I believed this would be a golden opportunity for Congress to not only replace the subsidy, but also craft a bill that would provide incentives to domestic manufacturers in order to create more jobs and get America back to work. The bill on the floor today, H.R. 4520, is sad evidence that Congress has squandered this opportunity by letting the needs of special interests and lobbyists come before the needs of American families.

Like the rest of America, my home State of Wisconsin has been hit hard by the loss of good paying manufacturing jobs over the last few years. Many of those workers who have found new jobs are typically working longer hours, working for less pay, working for fewer benefits, and working harder than ever to keep their families' budgets afloat. There are thousands of other Wisconsinites who have yet to find a job. By passing H.R. 4520 today, Congress will essentially turn its back on those who are struggling to maintain or find a job.

The so-called American Jobs Creation Act is a 930-page bill that reads like a horror story to me. Simply replacing the export subsidy would have cost $50 billion over 10 years. Instead, House Republicans have brought to the floor a bill, riddled with special-interest provisions and favors, that costs $150 billion over 10 years. Instead of creating jobs, it creates tax cuts for cruise-ship operators, foreign dog-race gamblers, NASCAR track owners, whaling tribes, bow-and-arrow makers, Chinese ceiling fan manufacturers, Oldsmobile dealers, and beer and liquor wholesalers.

It is clear to me that our nation's economy is changing—and not for the better. As you may know, 2.7 million manufacturing jobs have been lost since the beginning of the Bush Administration. Many on the other side of this issue say that the outsourcing of information technology and service industry jobs to other countries like China and India is healthy for our economy even though it is estimated that 3.4 million service industry jobs alone will move offshore by 2015. This is outrageous. Instead of confronting and fixing these serious economic challenges, H.R. 4520 makes them worse.

For example, H.R. 4250 provides Republican plan includes at least $30 billion in additional tax incentives for companies to move overseas. Specifically, it includes a large loophole that allows corporations to outsource almost all of the work needed to make a product and still reap most of the benefits from a tax break for ''domestic production.'' For example, if Microsoft hires foreign computer programmers to produce parts of its software because of lower wage rates overseas, it will receive a rate reduction for the cost savings so long as the final computer program is assembled in the U.S. I find it reprehensible that Republicans would bring a bill to the floor that discourages companies from keeping jobs where they belong—right here in the United States.

As I mentioned earlier, I believe that we need to give American companies the incentives they need to expand their businesses and create more good paying jobs. Unfortunately, tax breaks in H.R. 4250 unfairly discriminate against smaller companies even though these small firms create 75 percent of all new U.S. jobs every year. In fact, 82 percent of all profitable corporations will receive no tax benefit from this bill because they do not have incomes large enough to benefit from reducing the corporate tax rate to 32 from 35 percent. The rate reduction is essentially the core of this bill and I believe it makes no sense that subchapter S corporations, partnerships, farms, and other proprietorships engaged in manufacturing activities will receive no benefit from this reduction even though they are vital to the health of our nation's economy.

I am supporting an alternative bill, H.R. 1769, which was authored by Representative CHARLES RANGEL (D–NY). The bill provides tax incentives for companies to manufacture their products in America and provides no incentives for businesses to move offshore or utilize tax havens. It would also extend tax incentives and tax relief to small firms and farms—not just large corporations. Above any other reason, I support H.R. 1769 rather than the bill on the floor today because it puts our nation's best economic interests before special interests.

In conclusion, the number of gifts and favors in this bill makes it clear that Christmas has indeed come early for many lobbyists in Washington, DC. They have succeeded in taking a bill that could have created thousands of

jobs in the U.S. and converting it into a bill that no Member of Congress—and no American worker—should be proud of. I urge the House to reject the American Jobs Creation Act of 2004 and bring to the floor a bill that truly creates American jobs now and well into the future.

Mr. BLUMENAUER. Mr. Speaker, there is no more fitting counterpoint to the Reagan legacy than what we are seeing here today. Ronald Reagan was President during one of Congress's most significant tax accomplishments—The Tax Reform Act of 1986. It truly was tax reform. It made the tax system more fair, less complicated, and reduced governmental distortion of fundamental economic decisions by reducing categories of taxation. There was at least some nod towards maintaining a balance between resources and requirements.

Today's bill, H.R. 4520, is the antithesis of reform, making the tax code more complex while ignoring fiscal realities. Some provisions are just downright cynical. The Republican leadership was forced to withdraw an invitation for churches to break the law and to violate the fundamental principle of separation of church and State three times every election year.

This bill represents a troubling breakdown of the legislative process, illustrating how far the Ways and Means Committee has fallen from its previous reputation for bipartisanship and cooperation in crafting tax policy. This measure is a political grab-bag for lobbyists. Good legislation has been taken hostage by adding on provisions to ''buy'' votes for passage. We will then roll the political dice and let the chips fall where they may.

At a time of exploding deficits, when there's a battle over adequately funding our Nation's infrastructure which would put tens of thousands of people to work everyday, we're spending at least $34 billion, but realistically up to $180 billion over the next 11 years, if supposedly temporary provisions are extended.

The saddest aspect of this legislation is not a lack of fiscal responsibility or an abnegation of sound tax policy. This bill signals a surrender; not just by the leadership, but by Members of Congress, in the struggle to be meaningful, responsible policy makers. This cannot be foisted off on the inability of one committee chairman to manage the committee inconsistent with its historic role and achievements. It's not merely his failure. It's not just the failure of the majority leadership to be able to have the committee function and have a set of comprehensive objectives that meet the needs of the country. A vote of support on H.R. 4520 is our failure as a Congress.

Mr. MATSUI. Mr. Speaker, I rise today in strong opposition to H.R. 4520. Let me be clear—I support enacting legislation that would bring the United States into compliance with its WTO obligations and lead to the removal of the millions of dollars in sanctions that are hurting farmers and business across America. However, I cannot support a bill that provides over $250 million in corporate tax cuts over 10 years—during a time when our nation is experiencing record deficits.

Mr. Speaker, this year, the United States is expected to incur record deficits of over $450 billion. Over the next 10 years, the nation's debt is expected to grow by more than $2.5 trillion! If there ever was a time when Congress should be promoting fiscal responsibility—now is that time.

Mr. Speaker, the bill before us today would add hundreds of billions of dollars to our nation's deficit over the next ten years. The official cost of this bill is $34 billion. However, this estimate severely underestimates the true, long-term cost of the bill. The legislation includes numerous budget gimmicks—such as phasing in some of the major tax cuts and scheduling other tax cuts to expire after only a few years. In fact, when these budget gimmicks are removed, the true long-term cost of the bill is more than $250 billion!

Mr. Speaker, it is important to consider what the American people are getting for a bill that would add hundreds of billions of dollars to our nation's deficit. Unfortunately, rather than addressing critical national priorities—such as protecting Social Security and Medicare, providing incentives for the creation of U.S. jobs, or promoting affordable and accessible health care—this bill would provide billions of dollars in tax cuts to special interests and corporations.

Mr. Speaker, almost two-thirds of America's corporations paid no federal taxes from 1996 to 2000, according to a study by the General Accounting Office. Given these figures, I cannot understand why we would not take the money raised by repealing our WTO-inconsistent tax provisions and use these funds to address America's critical priorities—such as paying down the national debt to protect Social Security and Medicare, promoting U.S. jobs, or providing for affordable and accessible health care.

Mr. Speaker, we are a nation at war. We have deficits so large that international organizations like the IMF are warning that the continuation of our fiscal policies threaten to hurt not just the U.S. economy, but the global economy. This is no time to be giving special interests and corporations hundreds of billions in tax cuts. Mr. Speaker, the legislation under consideration today is a stark reflection of the differences in priorities and values that many of us have with the current tax and economic agenda of the majority. I strongly encourage my colleagues to vote ''no'' on this bill.

Mr. SANDLIN. Mr. Speaker, I rise today to claim a victory for Texans, but I remain uncertain that this bill is a victory for Americans or American jobs.

For Texans, I am pleased that after a great many months of work and much discussion, this legislation finally returns some fairness to our nation's tax code that had been missing for almost twenty years. Since 1986, some 54 million American taxpayers—almost 20% of our nation's population—have been denied the ability to deduct the state tax burden they bear from their income solely because the seven states where they live rely only on a retail sales tax to meet their needs.

Mr. Speaker, as a consequence of the reinstatement of the deductibility of sales tax provided in this bill, the taxpayers in my home state of Texas will save almost a billion dollars from their federal income tax burden in this year alone. That works out to around $300 in federal tax savings for every family in Texas, and, Mr. Speaker, that's a good thing. This bill is not.

While I am pleased that this legislation provides 22 million Texans with the ability to deduct their state tax burden from their income, I am disappointed that Chairman THOMAS's provision only allows Texans this benefit for two years. In the Ways and Means Committee on Monday, in the Rules Committee this morning, and in discussions over the past several weeks, I have insisted that Texans and the 42 million other Americans who live in states with a retail sales tax and without a state income tax deserve better than temporary equality. I have insisted that the deductibility of sales tax payments be made permanent.

If the deductibility of sales tax was good tax policy before 1986 and it is good tax policy for the next two years, then it appears clear to me that the ability to deduct sales tax payments is good tax policy on a permanent basis. The citizens of Florida, Nevada, South Dakota, Washington, Wyoming, and Texas have for too long borne a disproportionate share of the federal tax burden. That is not fair. That is not American.

While I wish that the deduction had been made permanent and made more generous, I am pleased that this bill at least rectifies an obvious inequity and reinstates the deductibility of sales tax payments, however temporarily.

However, Mr. Speaker, the good news for Texans is tempered by what is a terribly flawed bill. A wise man once said, ''There are two things you never want to see made: legislation and sausage.'' After witnessing the development of this bill for the past two years, I am convinced that he was right.

Mr. Speaker, the legislation before us today takes a $40 million problem and purports to solve it with $150 billion. In doing so, it passes on at least $34 billion in debt to the American people—to our children and grandchildren. I say that it adds ''at least'' $34 billion, because the bill is riddled with budget gimmicks such as delayed provisions and sunsets that obscure the true effect of this bill on the national debt. It is estimated that without these gimmicks the true cost of this bill could be as much as $300 billion over ten years—that comes out to $1,000 in corporate tax breaks for every man, woman and child in this country.

As a Blue Dog, Mr. Speaker, the continuing glut of deficit spending that we have witnessed in the past few years is of great concern to me and to my constituents. Potentially adding $300 billion to the national debt to solve a $40 billion problem—a problem that the Senate has proven can be solved without adding a penny to the debt—is a tragic breach of faith with the people who sent us to this House, whose best interests we are supposed to be representing. Adding $1,000 to the ''debt tax'' owed by every man, woman and child is simply bad tax policy, not to mention bad financial policy for the generations to come who will have to pay for this bill.

Mr. Speaker, this bill has some good provisions. Texans and others need to be treated fairly under our tax code; they need the ability to deduct their state tax burden, just as other Americans have the last 18 years. This bill allows that, and that's a good thing. Mr. Speaker, our nation's corporations thrive on their capacity to innovate. Innovation is driven by their ability to invest in research and development, and this bill extends the very important R&D tax credit that drives the innovation that makes America's corporations the envy of the world. That's a good thing.

Mr. Speaker, this bill fixes the problem for which U.S. companies are being subjected to

international trade sanctions. That repair will take a significant burden off the backs of our nation's exporters and once again enable them to compete effectively around the world. Finally, Mr. Speaker, the bill reduces the tax rate for American manufacturers, which frees up necessary capital to continue to build their business and keep American business on its best game. These are good things, to.

However, Mr. Speaker, while those provisions may be good for American business, for American taxpayers, and for American workers, the vast majority of the 450-page bill is so larded with special interest corporate giveaways, that it gives the term ''pork barrel'' a bad name. I for one have never been whaling, but I am no sure why native Alaskan subsistence whalers need a tax break. But of one thing I am absolutely certain, my children and grandchildren should not have to pay for it.

Mr. PAUL. Mr. Speaker, I will vote for H.R. 4520 today because the tax cuts contained in the bill outweigh the unfortunate but inevitable subsidies also included. I promise my constituents that I will vote for all tax cuts and against all new spending. So when faced with a bill that contains both, my decision is based on whether the bill cuts taxes overall, i.e. whether its ultimate impact will be to reduce or increase federal revenues. This legislation does reduce revenues, and therefore takes a small step towards reducing the size of the federal government. So while I certainly object to some parts of the bill, especially the tobacco bailout, I do support tax cuts.

My biggest concern with the bill, however, is not based on its contents. I object to the process underlying the bill and the political reason for which it was written. This bill is on the floor for one reason and one reason only: the World Trade Organization demanded that we change our domestic tax law. Since America first joined the WTO in 1994, Europe has objected to how we tax American companies on their overseas earnings. The EU took its dispute to the WTO grievance board, which voted in favor of the Europeans. After all, it's not fair for high-tax Europe to compete with relatively low tax America; the only solution is to force the U.S. to tax its companies more. The WTO ruling was clear: Congress must change American tax rules to comply with ''international law.''

Sadly, Congress chose to comply. We scrambled to change our corporate tax laws in 2001, but failed to appease the Europeans. They again complained to the WTO, which again sided with the EU. So we're back to the drawing board, working overtime to change our domestic laws to satisfy the WTO and the Europeans.

This outrageous affront to our national sovereignty was of course predictable when we joined the WTO. During congressional debates we were assured that entry into the organization posed no threat whatsoever to our sovereignty. But this was nonsense. A Congressional Research Service report was quite clear about the consequences of our membership: ''As a member of the WTO, the United States does commit to act in accordance with the rules of the multi-lateral body. It is legally obligated to insure that national laws do not conflict with WTO rules.'' With the Europeans and the WTO now telling us our laws are illegal and must be changed, it's hard to imagine a more blatant loss of American sovereignty.

The bill does cut taxes overall, and for that reason I will vote in favor of it. Any legislation that results in less money being sent to the black hole that is the federal Treasury is worth supporting. I especially support the provision that allows Texans (and citizens of other states that do not have an income tax) to deduct state sales taxes, and will vote yes accordingly.

Mr. CAMP. Mr. Speaker, I rise today in strong support of H.R. 4520, the American Jobs Creation Act.

Mr. Speaker, the bill before us today is about creating American jobs and making U.S. manufacturers more competitive in the world marketplace. To accomplish these core objectives we need to pass legislation that reduces the high tax rate U.S. manufacturers are forced to pay. Many would be surprised to learn that the U.S. has the second highest corporate tax burden at 40 percent, of any developed nation, just two percentage points below Japan. While the Republican Congress has done much to lower individual tax rates, it is also important to pass legislation that helps American employers better compete with Irish companies that have a 12.5 percent tax rate, Korean businesses that have a 29.7 percent rate, and British companies that incur a 30 percent tax rate. Although the United States leads the world in terms of productivity and efficiency, we need to begin to erase the serious disadvantages our tax code places on our companies.

By passing this bill today, we will be on our way to stopping another tariff increase imposed by the European Union on U.S. exports. On June 1, the EU increased the retaliatory tariff another percentage point to eight percent on American goods. If Congress fails to address this issue, the EU will continue to tack on another tariff each month until we act. Tariffs on American exports could go as high as 17 percent. Every one of our districts will feel the effects of the EU's actions. Products on the wide-ranging EU sanctions list range from agriculture, iron and steel, timber, textiles, to machinery. Imagine a 17 percent tax on U.S. exports! This would amount to a $4 billion bill that the American people would ultimately pay every time they went to the grocery store or mall.

If we do nothing and let the tariffs grow to the full 17 percent, American companies will not be able to hire new workers, expand operations, make new investments, and remain viable in the marketplace. The bill before us today will make the needed adjustments to our international tax laws plus give our U.S. manufacturers overdue tax relief, and lift the onerous tariffs on American products.

I urge my colleagues to vote for this critically important jobs bill. If you want to help the U.S. manufacturing sector grow and our economy to continue to expand, vote for this bill. By doing nothing, we risk crippling our robust new economy and endanger American job creation.

Mr. HOLT. Mr. Speaker, I rise in opposition to this tax bill which is full of giveaways to special interests. I wanted to support this bill. I support an across-the-board corporate rate reduction for income from U.S. manufacturing activities so that more manufacturing jobs can be created here in the United States. I am also a strong supporter of the R&D tax credit because it is an investment in the future and will keep our economy strong over the longterm.

However, this bill is full of items that have nothing to do with job creation or long-term investment in research.

This bill is a tax break for special interests. Do we really need a special tax loophole for manufactures of fishing tackle boxes? Or a tax break to benefit makers of sonar devices used for fishing. As an outdoorsman, I support fishing but we don't need a tax break to do it.

Many of my constituents enjoy target shooting with bow and arrows but do the makers of bow and arrows really need the tax break that this bill provides?

Further, the bill continues the Republicans' attack on the environment. In this bill is a tax break for whaling and a tax break to benefit landowners who sell timber from their property.

Also in this bill is a provision that isn't even tax policy, that is the tobacco ''buyout''. I can understand helping small tobacco farmers, however this bill only helps big tobacco corporations. The provisions of this bill will line their pockets with billions of dollars.

If the current quota system is eliminated, as proposed in the FSC bill, the price of tobacco will collapse. The minimum drop that can be expected in 50 cents per pound of tobacco—roughly the current amount that goes for rent to quota owners. As the U.S. price drops, foreign producers will lower their prices too. Falling prices will drive small tobacco farmers off of their land, while enriching Big Tobacco.

U.S. tobacco manufacturers intend to purchase 450 million pounds of domestic tobacco this year. At a discount of 50 cents per pound, the immediate savings is $225 million. But this is just a minimum estimate. According to a USDA economist, factoring in prices changes for both domestic and foreign tobacco, the end of the quota is worth $15 billion to the tobacco industry over 14 years.

Cigarette manufacturers can take this entire windfall as profit or use part of it to lower prices, addicting more children and killing more Americans. It is no surprise that leading public health groups consider this proposal an unmitigated disaster.

The list of special interest tax breaks goes on. If that is not bad enough the bill once again hurts the future generations of Americans by adding at least $34 billion in debt that will have to be paid back by our children. The legislation in the other body was at least revenue neutral.

More tax cuts of this sort will not only jeopardize critical public services now, but they will also hurt Americans well into the future. Massive deficits create large debt and will create high interest payments that will crowd out spending on public investments for future generations. Moreover, these deep deficits threaten to increase interest rates in the future—making it harder for Americans to buy homes and afford higher education and making it harder for businesses to raise capital.

The President is pretending that we can have war without sacrifice. Eventually, someone has to pay. I believe Chairman Greenspan's recent comments are appropriate: ''Our fiscal prospects are, in my judgment, a significant obstacle to long-term stability because the budget deficit is not readily subject to correction by market forces that stabilize other imbalances. The free lunch has still to be invented.''

Mr. Speaker, today we should be passing a revenue neutral bill that helps manufacturing

here in the United States, discourages sending jobs overseas and invests in research and development for our future.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to thank the honorable gentleman from California for his hard and patient work in getting the American Jobs Creation Act out of committee and to the floor.

It has been a difficult process I know, but with the passage of this bill we will add to the 1.1 million jobs this economy has created in the last 9 months.

I want to say that again: We have added 1.1 million new jobs in the last 9 months. And still the Democrats are talking about the worst economy since the great Depression.

I call their strategy Snipe and Gripe. Snipe at the heels of the leaders who are making progress and gripe about the economic recovery.

Theirs is a deliberate effort to talk down this economic recovery and slow its growth.

Our economy took a blow 2½ years ago, but Americans are fighting back. Thanks to the policies of this President and this Republican Congress, businesses are putting people back to work and our economy is growing at rates not seen in 20 years.

I want to take a second to thank Chairman THOMAS for cutting the corporate tax rate from 35 percent to 32 percent permanently. With this and other tax changes in the bill, American companies will be more competitive, more able to compete internationally, and, to the dismay of the Democrats, able to add even still more jobs.

As importantly, this bill recognizes the inequity taxpayers of states without income taxes face under current law. Finally, residents of Florida will be allowed to deduct their state sales tax from federal taxable income.

By including the sales tax deductibility, even temporarily, this bill brings fairness and relief to the residents of Florida.

It is only with dogged determination that we have been able to move this legislation and bring a greater measure of fairness to the tax code.

Ms. WATSON. Mr. Speaker, I rise today to voice my strong opposition to the Thomas ''American Jobs Exportation Act'' that provides billions of new tax breaks for offshore operations at the expense of exacerbating our Nation's deficits.

At the same time, I am extremely disappointed that millions of U.S. producers, farmers, and small business owners will be left behind. In my Los Angeles district, where the entertainment industry is the main driving force of our local economy, hundreds of thousands of workers are hurt by the phenomenon of runaway production, or the practice of filming overseas for pure economic reasons. The Senate JOBS Act has taken a serious look at this issue and included provisions to encourage domestic film production through tax write-offs. I regret that this was stripped out of the House bill, and, with the closed rule we are operating under today, no member could offer an amendment to address this devastating issue.

I support the underlying goals of what we are attempting today, which is to replace FSC/ETI export incentives with help for U.S. manufacturers. But H.R. 4520 has turned into a big corporate gift that keeps on giving, an overstuffed piñata for lobbyists. Millions of workers, such as the creative workforce hit hard by the outsourcing of film production, are altogether ignored.

H.R. 4520 is an outrageous bill not only because it fails to adequately address the plight of U.S. workers, but it helps move U.S. investment and jobs abroad. There is little wonder then that a modest provision to help keep entertainment jobs in the United States was completely discounted. While I strongly urge my colleagues to oppose H.R. 4520, I hope better legislation will be negotiated in conference.

Mr. GRAVES. Mr. Speaker, I rise today in support of the tobacco buyout provision that has been added to H.R. 4520, the American Jobs Creation Act. This provision offers great relief to the hard working tobacco farmers of Missouri and the Nation.

The American tobacco farmer has been financially pressed for decades due to outdated government regulations. This bill provides hope to many tobacco farmers and quota owners nationwide that face the increased challenges to their operations.

This tobacco provision provides $9.6 billion in compensation to quota holders and tobacco growers over 5 years. This ends a depression-era program and introduces free market reforms to tobacco farming.

Many may not realize Missouri's contribution to the tobacco industry, but our state alone in 2000 contributed roughly $2 million in annual sales. While tobacco farmers may be small in numbers, their contribution should not go unnoticed.

I want to commend Chairman THOMAS and House leadership for working to assist Missouri tobacco farmers and farmers across the Nation. I am pleased by my colleagues' efforts to include the tobacco provision in the American Jobs Creation Act and I look forward to supporting this legislation.

Mr. ROGERS of Michigan. Mr. Speaker, over the last 15 years, the Archery products industry has seen a tremendous growth in its sport due to increased deer populations and expanded hunting seasons. Unfortunately, that expansion has reached a plateau and we are seeing decreasing numbers of bow hunters and sportsmen nationwide.

This problem threatens not only our industry but the future of our sport as well. The archery industry tax adopted in the early 1970's has accomplished many of its original goals, but has shown a limitation that keeps the sport from growing in the future.

I believe that it is once again time for the leaders in the archery industry to step forward and reform the archery excise tax to meet the demands of the next century. This reform must protect the archery industry by benefiting the next generation of sportsmen and enhancing our heritage.

The current tax represents an unfair burden shared by only a few manufacturers in the larger archery industry. While you cannot fault the leaders who drafted this legislation in the early 1970's, since then, the sport has created dozens of new industries and products. Unfortunately, the tax has not changed to keep up with the changing market in archery products. Today, only a few of the manufacturers of archery products pay the tax, most products used in archery hunting today have never paid the tax, and with the legislation passing today, that failed legacy will continue. It is time to create a program that will accomplish the goal of expanding the sport and sharing the tax among the broad variety of archery product industries.

When the legislation to tax the archery industry was enacted in the 1970's, one-half of the revenue was to be used for purposes of the regular Federal Aid in Wildlife Restoration Program and one-half could be used for the acquisition and development of public archery ranges and for courses. Unfortunately, budget constraints have limited the amount of money state agencies had been able to expend on development of ranges.

Reform should mandate that 20 percent of the funding be directed to ''wildlife heritage, skills and education programs.'' This would include tremendous programs like ''Becoming an Outdoors Woman'' and ''Archery in Schools.''

The current system taxes domestically made arrows, bows and equipment leaving much of the current industry untaxed and making the current structure a heavy burden on the consumers and a few manufacturers.

Reform should clarify the definition of arrows and make several additional changes to the bow and arrow excise tax provisions in current law. Under current law, imported arrows are not taxed. To remedy this, a 3–5 percent excise tax would be imposed on the first sale of a shaft suitable for making an arrow. Since many arrow shaft manufacturers also sell arrows, a 3–5 percent excise tax would be imposed on the first sale of an arrow unless the excise tax has already been collected on the arrow shaft used in making the arrow. In addition, a 3–5 percent tax will be levied on other industry items including: tree stands, releases, quivers, hunting blinds, archery targets, scents and sprays. The list of taxable items, among others, already includes bow handles, bow levels, bow stabilizers, camouflaged bow covers, kisser buttons, and string peeps.

This proposal never received serious consideration from Congress and was dismissed by the proponents of the current proposal as too complicated and too troublesome to consider. Unfortunately, the proposal in H.R. 4520 is a half step that will force the State agencies, wildlife groups, and the archery industry to come back to the Congress for a real reform that will promote the sport of archery, enhance our nation's wildlife resources and protect the archery industry.

Mrs. MALONEY. Mr. Speaker, I rise today in opposition to this legislation. There is no question that Congress must act promptly to repeal the tax breaks for U.S. exporters. The EU sanctions are increasing and are unfairly hurting sectors of the economy that do not benefit from the tax advantage.

But this is the wrong way to do it. This bill—with all the special interest tax breaks that have been loaded onto it—would hurt the economy more than doing nothing. It abolishes the tax subsidies for exporters but replaces them with an array of special interest tax breaks. We have an opportunity here for reform that would help our manufacturing sector while responding to the UE sanctions. We should not affirmatively do harm by passing this bill instead.

I am particularly concerned that this bill substantially increases incentives to move American jobs offshore—by 40 million dollars, according to one estimate. How can we encourage companies to move jobs offshore at a time when the unemployment rate in New

York City is at 8.1 percent and the national rate is 5.6 percent? Who are we helping here? Certainly not the American worker.

Unfortunately, the Majority has denied us the opportunity to vote on the Rangel substitute to this misguided legislation. The Rangel alternative would strike provisions that promote shipping jobs overseas, add provisions to create more jobs in the United States by giving tax relief to American manufacturing including small business and farmers, strike narrow special interest provisions, and is fully paid for. And the Rangel substitute would close tax loopholes for corporations and individuals that move abroad to avoid paying taxes. By limiting debate on these critical issues, the Republicans do a disservice to the American people.

I strongly urge my colleagues to vote against this legislation.

Ms. ESHOO. Mr. Speaker, I'm very disappointed that I can't support this legislation because there are parts of the bill that I do support and also because American industry needs to have a resolution to avoid debilitating trade sanctions and tariffs.

I support the bill's extension of the Research and Development tax credit which is set to expire at the end of this month. I also strongly support the inclusion of incentives for corporations to repatriate their overseas profits which would stimulate the investment of hundreds of millions of dollars in our domestic economy. I've been a strong advocate of both of these provisions which were included in the alternative offered by Representative RANGEL. In fact, the alternative includes language on repatriation of overseas profits that would provide even greater benefits than the bill before us.

Unfortunately, with this bill, what began as an opportunity to correct the tax code and avert retaliatory tariffs has turned into a special interest handout for everything from tobacco to tackle boxes. None of the special interest provisions added have anything to do with amending international tax law but are merely an attempt to buy votes for this misguided bill. The bill also discriminates against small businesses, excluding them from many of the tax breaks granted to large corporation.

Not only does this bill not do enough to create American jobs, as the title claims, but it adds $34 billion to our nation's deficit at a time when the Administration and the Majority in Congress are underfunding important priorities such as education, health care, and antiterrorism.

In contract to this bill, Representative RANGEL's alternative is a responsible approach and I'm pleased to vote for it. Instead of a $34 billion price tag, the alternative is revenue neutral; every provision in the bill is offset with other revenue. In addition to the Research and Development tax credit extension and reduced taxes on repatriated profits, the proposal also provides tax relief for domestic manufacturers—including small businesses and farms—to promote job growth here in America and boost our economy.

I'm hopeful that the conference committee will report back to the House a bill that addresses the necessary reform of international tax law without creating special interest loopholes and exacerbating our record national deficits.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 681, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. RANGEL

Mr. RANGEL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. RANGEL. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Rangel moves to recommit the bill H.R. 4520 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with the following amendments:

Strike all after the enacting clause other than title VII and insert before title VII the following:

**SECTION 1. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This Act may be cited as the ''American Jobs Creation Act of 2004''.

(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. 101. REPEAL OF EXCLUSION FOR EXTRATERRITORIAL INCOME.**

(a) IN GENERAL.—Section 114 of the Internal Revenue Code of 1986 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 December 31, 2004.

(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 revoke such election, effective as of the close of December 31, 2004, and

(B) if the corporation does revoke such election—

(i) such corporation shall be treated as a domestic corporation transferring (as of December 31, 2004) all of its property to a foreign corporation in connection with an exchange described in section 354 of the Internal Revenue Code of 1986, 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, each 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 2001 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: |
|---|---|
| 2005 | 80 |
| 2006 | 60 |
| 2007 and thereafter | 0 |

(ii) 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.

(4) BASE PERIOD AMOUNT.—For purposes of this subsection, the base period amount is the aggregate FSC/ETI benefits for the taxpayer's taxable year beginning in calendar year 2001.

(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 FARM 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.

(9) SPECIAL RULE FOR CERTAIN TAXABLE YEARS WHICH INCLUDE DECEMBER 31, 2004.—In the case of a taxable year which is not a calendar year and which includes December 31, 2004, 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, reduced by

(B) the aggregate FSC/ETI benefits of such beneficiary with respect to transactions occurring during the portion of the taxable year ending on December 31, 2004.

**SEC. 102. DEDUCTION RELATING TO INCOME ATTRIBUTABLE TO UNITED STATES PRODUCTION ACTIVITIES.**

(a) IN GENERAL.—Part VII 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) IN GENERAL.—There shall be allowed as a deduction an amount equal to 10 percent of the qualified production activities income of the taxpayer for the taxable year.

''(b) PHASEIN.—In the case of taxable years beginning in 2005, 2006, or 2007, subsection (a) 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: |
|---|---|
| 2005 | 3 |
| 2006 | 6 |
| 2007 | 9 |

''(c) QUALIFIED PRODUCTION ACTIVITIES INCOME.—For purposes of this section, the term 'qualified production activities income' means the product of—

''(1) the portion of the modified taxable income of the taxpayer which is attributable to domestic production activities, and

''(2) the domestic/worldwide fraction.

''(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 RULE FOR DETERMINING COSTS.—

''(A) 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 value in the United States, determined immediately after it was brought into 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) 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 subsection, the term 'qualifying production property' means—

''(A) any tangible personal property,

''(B) any computer software, and

''(C) any property described in paragraph (3) or (4) of section 168(f), including any underlying copyright or trademark.

Subparagraph (C) shall not apply to any property with respect to which records are required to be maintained under section 2257 of title 18, United States Code.

''(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 (or any primary product thereof),

''(C) electricity,

''(D) water supplied by pipeline to the consumer,

''(E) utility services, or

''(F) any property (not described in paragraph (1)(B)) which is a film, tape, recording, book, magazine, newspaper, or similar property the market for which is primarily topical or otherwise essentially transitory in nature.

''(3) SPECIAL RULE FOR NONCORPORATE TAXPAYERS.—In the case of a taxpayer other than a corporation subject to tax under section 11, the term 'qualifying production property' only includes—

''(A) agricultural or horticultural products, including timber, and

''(B) other tangible personal property not described in subparagraph (B) or (C) of paragraph (1) and not described in section 1221(a)(3).

''(g) DOMESTIC/WORLDWIDE FRACTION.—For purposes of this section—

''(1) IN GENERAL.—The term 'domestic/worldwide fraction' means a fraction (not greater than 1)—

''(A) the numerator of which is the value of the domestic production of the taxpayer, and

''(B) the denominator of which is the value of the worldwide production of the taxpayer.

''(2) VALUE OF DOMESTIC PRODUCTION.—The value of domestic production is the excess (if any) of—

''(A) the domestic production gross receipts, over

''(B) the cost of purchased inputs allocable to such receipts that are deductible under this chapter for the taxable year.

''(3) PURCHASED INPUTS.—

''(A) IN GENERAL.—Purchased inputs are any of the following items acquired by purchase:

''(i) Services (other than services of employees) used in manufacture, production, growth, or extraction activities.

''(ii) Items consumed in connection with such activities.

''(iii) Items incorporated as part of the property being manufactured, produced, grown, or extracted.

''(B) SPECIAL RULE.—Rules similar to the rules of subsection (d)(3) shall apply for purposes of this subsection.

''(4) VALUE OF WORLDWIDE PRODUCTION.—

''(A) IN GENERAL.—The value of worldwide production shall be determined under the principles of paragraph (2), except that—

''(i) worldwide production gross receipts shall be taken into account, and

''(ii) paragraph (3)(B) shall not apply.

''(B) WORLDWIDE PRODUCTION GROSS RECEIPTS.—The worldwide production gross receipts is the amount that would be determined under subsection (e) if such subsection were applied without any reference to the United States.

''(h) DEFINITIONS AND SPECIAL RULES.—

''(1) UNITED STATES.—For purposes of this section, the term 'United States' includes the Commonwealth of Puerto Rico and any other possession of the United States.

''(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) (determined as if the organization were a corporation if it is not) and designated as such by the organization in a written notice mailed to its patrons during the payment period described in section 1382(a),

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 RULES FOR PARTNERSHIPS AND S CORPORATIONS.—For purposes of this section, a partner's distributive share of any partnership item shall be taken into account as if directly realized by the partner. A rule similar to the rule of the preceding sentence shall apply in the case of a shareholder in an S Corporation.

''(4) 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).

For purposes of determining the domestic/worldwide fraction under subsection (g), clause (ii) shall be applied by also disregarding paragraphs (3) and (8) of section 1504(b).

''(5) 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.

''(6) ORDERING RULE.—The amount of any other deduction allowable under this chapter shall be determined as if this section had not been enacted.

''(7) 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.

''(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 101(c)(2) of the American Jobs Creation Act of 2004 applies to such transaction, and

''(B) any deduction allowed under section 101(e) of such Act shall be disregarded in determining the portion of the taxable income which is attributable to domestic production gross receipts.''.

(b) CLERICAL AMENDMENT.—The table of sections for part VII 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.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after December 31, 2004.

(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.

## TITLE II—ADDITIONAL BUSINESS BENEFITS

### Subtitle A—Small Business Expensing

#### SEC. 201. 2-YEAR EXTENSION OF INCREASED EXPENSING FOR SMALL BUSINESS.

Subsections (b), (c), and (d) of section 179 are each amended by striking ''2006'' each place it appears and inserting ''2008''.

### Subtitle B—S Corporation Reform and Simplification

#### SEC. 211. MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.

(a) IN GENERAL.—Paragraph (1) of section 1361(c) (relating to special rules for applying subsection (b)) is amended to read as follows:

''(1) MEMBERS OF FAMILY TREATED AS 1 SHAREHOLDER.—

''(A) IN GENERAL.—For purpose of subsection (b)(1)(A)—

''(i) except as provided in clause (ii), a husband and wife (and their estates) shall be treated as 1 shareholder, and

''(ii) in the case of a family with respect to which an election is in effect under subparagraph (D), all members of the family shall be treated as 1 shareholder.

''(B) MEMBERS OF THE FAMILY.—For purpose of subparagraph (A)(ii)—

''(i) IN GENERAL.—The term 'members of the family' means the common ancestor, lineal descendants of the common ancestor, and the spouses (or former spouses) of such lineal descendants or common ancestor.

''(ii) COMMON ANCESTOR.—For purposes of this paragraph, an individual shall not be considered a common ancestor if, as of the later of the effective date of this paragraph or the time the election under section 1362(a) is made, the individual is more than 3 generations removed from the youngest generation of shareholders who would (but for this clause) be members of the family. For purposes of the preceding sentence, a spouse (or former spouse) shall be treated as being of the same generation as the individual to which such spouse is (or was) married.

''(C) EFFECT OF ADOPTION, ETC.—In determining whether any relationship specified in subparagraph (B) exists, the rules of section 152(b)(2) shall apply.

''(D) ELECTION.—An election under subparagraph (A)(ii)—

''(i) may, except as otherwise provided in regulations prescribed by the Secretary, be made by any member of the family, and

''(ii) shall remain in effect until terminated as provided in regulations prescribed by the Secretary.''.

(b) RELIEF FROM INADVERTENT INVALID ELECTION OR TERMINATION.—Section 1362(f) (relating to inadvertent invalid elections or terminations), as amended by section 219, is amended—

(1) by inserting ''or section 1361(c)(1)(A)(ii)'' after ''section 1361(b)(3)(B)(ii),'' in paragraph (1), and

(2) by inserting ''or section 1361(c)(1)(D)(iii)'' after ''section 1361(b)(3)(C),'' in paragraph (1)(B).

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2004.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to elections and terminations made after December 31, 2004.

#### SEC. 212. INCREASE IN NUMBER OF ELIGIBLE SHAREHOLDERS TO 100.

(a) IN GENERAL.—Section 1361(b)(1)(A) (defining small business corporation) is amended by striking ''75'' and inserting ''100''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

#### SEC. 213. EXPANSION OF BANK S CORPORATION ELIGIBLE SHAREHOLDERS TO INCLUDE IRAS.

(a) IN GENERAL.—Section 1361(c)(2)(A) (relating to certain trusts permitted as shareholders) is amended by inserting after clause (v) the following new clause:

''(vi) In the case of a corporation which is a bank (as defined in section 581), a trust which constitutes an individual retirement account under section 408(a), including one designated as a Roth IRA under section 408A, but only to the extent of the stock held by such trust in such bank as of the date of the enactment of this clause.''.

(b) TREATMENT AS SHAREHOLDER.—Section 1361(c)(2)(B) (relating to treatment as shareholders) is amended by adding at the end the following new clause:

''(vi) In the case of a trust described in clause (vi) of subparagraph (A), the individual for whose benefit the trust was created shall be treated as a shareholder.''.

(c) SALE OF BANK STOCK IN IRA RELATING TO S CORPORATION ELECTION EXEMPT FROM PROHIBITED TRANSACTION RULES.—Section 4975(d) (relating to exemptions) is amended by striking ''or'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting ''; or'', and by adding at the end the following new paragraph:

''(16) a sale of stock held by a trust which constitutes an individual retirement account under section 408(a) to the individual for whose benefit such account is established if—

''(A) such stock is in a bank (as defined in section 581),

''(B) such stock is held by such trust as of the date of the enactment of this paragraph,

''(C) such sale is pursuant to an election under section 1362(a) by such bank,

''(D) such sale is for fair market value at the time of sale (as established by an independent appraiser) and the terms of the sale are otherwise at least as favorable to such trust as the terms that would apply on a sale to an unrelated party,

''(E) such trust does not pay any commissions, costs, or other expenses in connection with the sale, and

''(F) the stock is sold in a single transaction for cash not later than 120 days after the S corporation election is made.''.

(d) CONFORMING AMENDMENT.—Section 512(e)(1) is amended by inserting ''1361(c)(2)(A)(vi) or'' before ''1361(c)(6)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 214. DISREGARD OF UNEXERCISED POWERS OF APPOINTMENT IN DETERMINING POTENTIAL CURRENT BENEFICIARIES OF ESBT.**

(a) IN GENERAL.—Section 1361(e)(2) (defining potential current beneficiary) is amended—

(1) by inserting ''(determined without regard to any power of appointment to the extent such power remains unexercised at the end of such period)'' after ''of the trust'' in the first sentence, and

(2) by striking ''60-day'' in the second sentence and inserting ''1-year''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. 215. TRANSFER OF SUSPENDED LOSSES INCIDENT TO DIVORCE, ETC.**

(a) IN GENERAL.—Section 1366(d)(2) (relating to indefinite carryover of disallowed losses and deductions) is amended to read as follows:

''(2) INDEFINITE CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), any loss or deduction which is disallowed for any taxable year by reason of paragraph (1) shall be treated as incurred by the corporation in the succeeding taxable year with respect to that shareholder.

''(B) TRANSFERS OF STOCK BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in section 1041(a) of stock of an S corporation, any loss or deduction described in subparagraph (A) with respect such stock shall be treated as incurred by the corporation in the succeeding taxable year with respect to the transferee.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. 216. USE OF PASSIVE ACTIVITY LOSS AND AT-RISK AMOUNTS BY QUALIFIED SUBCHAPTER S TRUST INCOME BENEFICIARIES.**

(a) IN GENERAL.—Section 1361(d)(1) (relating to special rule for qualified subchapter S trust) is amended—

(1) by striking ''and'' at the end of subparagraph (A),

(2) by striking the period at the end of subparagraph (B) and inserting '', and'', and

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

''(C) for purposes of applying sections 465 and 469 to the beneficiary of the trust, the disposition of the S corporation stock by the trust shall be treated as a disposition by such beneficiary.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made after December 31, 2004.

**SEC. 217. EXCLUSION OF INVESTMENT SECURITIES INCOME FROM PASSIVE INCOME TEST FOR BANK S CORPORATIONS.**

(a) IN GENERAL.—Section 1362(d)(3) (relating to where passive investment income exceeds 25 percent of gross receipts for 3 consecutive taxable years and corporation has accumulated earnings and profits) is amended by adding at the end the following new subparagraph:

''(F) EXCEPTION FOR BANKS; ETC.—In the case of a bank (as defined in section 581), a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a))), or a financial holding company (within the meaning of section 2(p) of such Act), the term 'passive investment income' shall not include—

''(i) interest income earned by such bank or company, or

''(ii) dividends on assets required to be held by such bank or company, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. 218. TREATMENT OF BANK DIRECTOR SHARES.**

(a) IN GENERAL.—Section 1361 (defining S corporation) is amended by adding at the end the following new subsection:

''(f) RESTRICTED BANK DIRECTOR STOCK.—

''(1) IN GENERAL.—Restricted bank director stock shall not be taken into account as outstanding stock of the S corporation in applying this subchapter (other than section 1368(f)).

''(2) RESTRICTED BANK DIRECTOR STOCK.—For purposes of this subsection, the term 'restricted bank director stock' means stock in a bank (as defined in section 581), a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a))), or a financial holding company (within the meaning of section 2(p) of such Act), registered with the Federal Reserve System if such stock—

''(A) is required to be held by an individual under applicable Federal or State law in order to permit such individual to serve as a director, and

''(B) is subject to an agreement with such bank or company (or a corporation which controls (within the meaning of section 368(c)) such bank or company) pursuant to which the holder is required to sell back such stock (at the same price as the individual acquired such stock) upon ceasing to hold the office of director.

''(3) CROSS REFERENCE.—

**''For treatment of certain distributions with respect to restricted bank director stock, see section 1368(f).''.**

(b) DISTRIBUTIONS.—Section 1368 (relating to distributions) is amended by adding at the end the following new subsection:

''(f) RESTRICTED BANK DIRECTOR STOCK.—If a director receives a distribution (not in part or full payment in exchange for stock) from an S corporation with respect to any restricted bank director stock (as defined in section 1361(f)), the amount of such distribution—

''(1) shall be includible in gross income of the director, and

''(2) shall be deductible by the corporation for the taxable year of such corporation in which or with which ends the taxable year in which such amount in included in the gross income of the director.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. 219. RELIEF FROM INADVERTENTLY INVALID QUALIFIED SUBCHAPTER S SUBSIDIARY ELECTIONS AND TERMINATIONS.**

(a) IN GENERAL.—Section 1362(f) (relating to inadvertent invalid elections or terminations) is amended—

(1) by inserting '', section 1361(b)(3)(B)(ii),'' after ''subsection (a)'' in paragraph (1),

(2) by inserting '', section 1361(b)(3)(C),'' after ''subsection (d)'' in paragraph (1)(B),

(3) by amending paragraph (3)(A) to read as follows:

''(A) so that the corporation for which the election was made is a small business corporation or a qualified subchapter S subsidiary, as the case may be, or'',

(4) by amending paragraph (4) to read as follows:

''(4) the corporation for which the election was made, and each person who was a shareholder in such corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of such corporation as an S corporation or a qualified subchapter S subsidiary, as the case may be) as may be required by the Secretary with respect to such period,'', and

(5) by inserting ''or a qualified subchapter S subsidiary, as the case may be'' after ''S corporation'' in the matter following paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. 220. INFORMATION RETURNS FOR QUALIFIED SUBCHAPTER S SUBSIDIARIES.**

(a) IN GENERAL.—Section 1361(b)(3)(A) (relating to treatment of certain wholly owned subsidiaries) is amended by inserting ''and in the case of information returns required under part III of subchapter A of chapter 61'' after ''Secretary''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

**SEC. 221. REPAYMENT OF LOANS FOR QUALIFYING EMPLOYER SECURITIES.**

(a) IN GENERAL.—Subsection (f) of section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(7) S CORPORATION REPAYMENT OF LOANS FOR QUALIFYING EMPLOYER SECURITIES.—A plan shall not be treated as violating the requirements of section 401 or 409 or subsection (e)(7), or as engaging in a prohibited transaction for purposes of subsection (d)(3), merely by reason of any distribution (as described in section 1368(a)) with respect to S corporation stock that constitutes qualifying employer securities, which in accordance with the plan provisions is used to make payments on a loan described in subsection (d)(3) the proceeds of which were used to acquire such qualifying employer securities (whether or not allocated to participants). The preceding sentence shall not apply in the case of a distribution which is paid with respect to any employer security which is allocated to a participant unless the plan provides that employer securities with a fair market value of not less than the amount of such distribution are allocated to such participant for the year which (but for the preceding sentence) such distribution would have been allocated to such participant.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions with respect to S corporation stock made after December 31, 2004.

## Subtitle C—Toll Tax on Excess Qualified Foreign Distribution Amount

**SEC. 231. TOLL TAX ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.**

(a) IN GENERAL.—Subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new section:

**''SEC. 965. TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.**

''(a) TOLL TAX IMPOSED ON EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—If a corporation elects the application of this section, a tax shall be imposed on the taxpayer in an amount equal to 5.25 percent of—

''(1) the taxpayer's excess qualified foreign distribution amount, and

''(2) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount.

Such tax shall be imposed in lieu of the tax imposed under section 11 or 55 on the amounts described in paragraphs (1) and (2) for the taxable year.

''(b) EXCESS QUALIFIED FOREIGN DISTRIBUTION AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'excess qualified foreign distribution amount' means the excess (if any) of—

''(A) the aggregate dividends received by the taxpayer during the taxable year which are—

''(i) from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid, and

''(ii) described in a domestic reinvestment plan which—

''(I) is approved by the taxpayer's president, chief executive officer, or comparable official before the payment of such dividends and subsequently approved by the taxpayer's board of directors, management committee, executive committee, or similar body, and

''(II) provides for the reinvestment of such dividends in the United States (other than as payment for executive compensation), including as a source for the funding of worker hiring and training, infrastructure, research and development, capital investments, or the financial stabilization of the corporation for the purposes of job retention or creation, over

''(B) the base dividend amount.

''(2) BASE DIVIDEND AMOUNT.—The term 'base dividend amount' means an amount designated under subsection (c)(7), but not less than the average amount of dividends received during the fixed base period from 1 or more corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder on the date such dividends are paid.

''(3) FIXED BASE PERIOD.—

''(A) IN GENERAL.—The term 'fixed base period' means each of 3 taxable years which are among the 5 most recent taxable years of the taxpayer ending on or before December 31, 2002, determined by disregarding—

''(i) the 1 taxable year for which the taxpayer had the highest amount of dividends from 1 or more corporations which are controlled foreign corporations relative to the other 4 taxable years, and

''(ii) the 1 taxable year for which the taxpayer had the lowest amount of dividends from such corporations relative to the other 4 taxable years.

''(B) SHORTER PERIOD.—If the taxpayer has fewer than 5 taxable years ending on or before December 31, 2002, then in lieu of applying subparagraph (A), the fixed base period shall include all the taxable years of the taxpayer ending on or before December 31, 2002.

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DIVIDENDS.—The term 'dividend' has the meaning given such term by section 316, except that the term shall include amounts described in section 951(a)(1)(B), but shall not include amounts described in sections 78 and 959.

''(2) CONTROLLED FOREIGN CORPORATIONS AND UNITED STATES SHAREHOLDERS.—The term 'controlled foreign corporation' has the meaning given such term by section 957(a) and the term 'United States shareholder' has the meaning given such term by section 951(b).

''(3) FOREIGN TAX CREDITS.—The amount of any income, war, profits, or excess profit taxes paid (or deemed paid under sections 902 and 960) or accrued by the taxpayer with respect to the excess qualified foreign distribution amount for which a credit would be allowable under section 901 in the absence of this section, shall be reduced by 85 percent. No deduction shall be allowed under this chapter for the portion of any tax for which credit is not allowable by reason of the preceding sentence.

''(4) FOREIGN TAX CREDIT LIMITATION.—For purposes of section 904, there shall be disregarded 85 percent of—

''(A) the excess qualified foreign distribution amount,

''(B) the amount determined under section 78 which is attributable to such excess qualified foreign distribution amount, and

''(C) the amounts (including assets, gross income, and other relevant bases of apportionment) which are attributable to the excess qualified foreign distribution amount which would, determined without regard to this section, be used to apportion the expenses, losses, and deductions of the taxpayer under section 861 and 864 in determining its taxable income from sources without the United States.

For purposes of applying subparagraph (C), the principles of section 864(e)(3)(A) shall apply.

''(5) TREATMENT OF ACQUISITIONS AND DISPOSITIONS.—Rules similar to the rules of section 41(f)(3) shall apply in the case of acquisitions or dispositions of controlled foreign corporations occurring on or after the first day of the earliest taxable year taken into account in determining the fixed base period.

''(6) TREATMENT OF CONSOLIDATED GROUPS.—Members of an affiliated group of corporations filing a consolidated return under section 1501 shall be treated as a single taxpayer for purposes of this section.

''(7) DESIGNATION OF DIVIDENDS.—Subject to subsection (b)(2), the taxpayer shall designate the particular dividends received during the taxable year from 1 or more corporations which are controlled foreign corporations in which it is a United States shareholder which are dividends excluded from the excess qualified foreign distribution amount. The total amount of such designated dividends shall equal the base dividend amount.

''(8) TREATMENT OF EXPENSES, LOSSES, AND DEDUCTIONS.—Any expenses, losses, or deductions of the taxpayer allowable under subchapter B—

''(A) shall not be applied to reduce the amounts described in subsection (a)(1), and

''(B) shall be applied to reduce other income of the taxpayer (determined without regard to the amounts described in subsection (a)(1)).

''(d) ELECTION.—

''(1) IN GENERAL.—An election under this section shall be made on the taxpayer's timely filed income tax return for the first taxable year (determined by taking extensions into account) ending 120 days or more after the date of the enactment of this section, and, once made, may be revoked only with the consent of the Secretary.

''(2) ALL CONTROLLED FOREIGN CORPORATIONS.—The election shall apply to all corporations which are controlled foreign corporations in which the taxpayer is a United States shareholder during the taxable year.

''(3) CONSOLIDATED GROUPS.—If a taxpayer is a member of an affiliated group of corporations filing a consolidated return under section 1501 for the taxable year, an election under this section shall be made by the common parent of the affiliated group which includes the taxpayer and shall apply to all members of the affiliated group.

''(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary and appropriate to carry out the purposes of this section, including regulations under section 55 and regulations addressing corporations which, during the fixed base period or thereafter, join or leave an affiliated group of corporations filing a consolidated return.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart F of part III of subchapter N of chapter 1 is amended by adding at the end the following new item:

''Sec. 965. Toll tax imposed on excess qualified foreign distribution amount.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to the first taxable year of the electing taxpayer ending 120 days or more after the date of the enactment of this Act.

## TITLE III—EXTENSION OF EXPIRING PROVISIONS

### SEC. 301. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—

(1) by striking ''RULE FOR 2000, 2001, 2002, AND 2003.—'' and inserting ''RULE FOR TAXABLE YEARS 2000 THROUGH 2005.—'', and

(2) by striking ''or 2003,'' and inserting ''2003, 2004, or 2005,''.

(b) CONFORMING PROVISIONS.—

(1) Section 904(h) is amended by striking ''or 2003'' and inserting ''2003, 2004, or 2005''.

(2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2004 or 2005.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

### SEC. 302. EXTENSION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) (relating to termination) is amended by striking ''June 30, 2004'' and inserting ''December 31, 2005''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''June 30, 2004'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to amounts paid or incurred after the date of the enactment of this Act.

### SEC. 303. EXTENSION OF CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 45(c)(3) (defining qualified facility) are both amended by striking ''2004'' and inserting ''2006''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced and sold after December 31, 2003.

### SEC. 304. INDIAN EMPLOYMENT TAX CREDIT.

Section 45A(f) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

### SEC. 305. WORK OPPORTUNITY CREDIT.

(a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2003.

### SEC. 306. WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2003.

### SEC. 307. CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by striking ''or 2003'' and inserting '', 2003, 2004, or 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

### SEC. 308. EXTENSION OF ACCELERATED DEPRECIATION BENEFIT FOR PROPERTY ON INDIAN RESERVATIONS.

Paragraph (8) of section 168(j) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

**SEC. 309. CHARITABLE CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES.**

(a) IN GENERAL.—Subparagraph (G) of section 170(e)(6) (relating to special rule for contributions of computer technology and equipment for educational purposes) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

**SEC. 310. EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.**

(a) IN GENERAL.—Subsection (h) of section 198 (relating to termination) is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to expenditures paid or incurred after December 31, 2003.

**SEC. 311. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking ''2003'' each place it appears in the text and headings and inserting ''2004''.

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 220(j)(4) is amended by striking ''and 2002'' and inserting ''2002, and 2004''.

(2) Subparagraph (C) of section 220(j)(2) is amended to read as follows:

''(C) NO LIMITATION FOR 2000 OR 2003.—The numerical limitation shall not apply for 2000 or 2003.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2004.

(d) TIME FOR FILING REPORTS.—The report required by section 220(j)(4) of the Internal Revenue Code of 1986 to be made on August 1, 2004, shall be treated as timely if made before the close of the 90-day period beginning on the date of the enactment of this Act.

**SEC. 312. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.**

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking ''January 1, 2004'' and inserting ''January 1, 2006''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2003.

**SEC. 313. QUALIFIED ZONE ACADEMY BONDS.**

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2003'' and inserting ''2003, 2004, and 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

**SEC. 314. DISTRICT OF COLUMBIA.**

(a) DISTRICT OF COLUMBIA ENTERPRISE ZONE.—Subsection (f) of section 1400 is amended by striking ''December 31, 2003'' both places it appears and inserting ''December 31, 2005''.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—Subsection (b) of section 1400A is amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) Section 1400B is amended by striking ''January 1, 2004'' each place it appears and inserting ''January 1, 2006''.

(2) Subsections (e)(2) and (g)(2) of section 1400B are each amended by striking ''2008'' each place it appears in the headings and text and inserting ''2010''.

(3) Subsection (d) of section 1400F is amended by striking ''December 31, 2008'' and inserting ''December 31, 2010''.

(d) FIRST-TIME HOMEBUYER CREDIT.—Subsection (i) of section 1400C is amended by striking ''January 1, 2004'' and inserting ''January 1, 2006''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—The amendment made by subsection (b) shall apply to obligations issued after December 31, 2003.

**SEC. 315. EXTENSION OF CERTAIN NEW YORK LIBERTY ZONE BOND FINANCING.**

Subparagraph (D) of section 1400L(d)(2) is amended by striking ''2005'' and inserting ''2009''.

**SEC. 316. DISCLOSURES RELATING TO TERRORIST ACTIVITIES.**

(a) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) and subparagraph (E) of section 6103(i)(7) are both amended by striking ''December 31, 2003'' and inserting ''December 31, 2005''.

(b) DISCLOSURE OF TAXPAYER IDENTITY TO LAW ENFORCEMENT AGENCIES INVESTIGATING TERRORISM.—Subparagraph (A) of section 6103(i)(7) is amended by adding at the end the following new clause:

''(v) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to disclosures on or after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall take effect as if included in section 201 of the Victims of Terrorism Tax Relief Act of 2001.

**SEC. 317. DISCLOSURE OF RETURN INFORMATION RELATING TO STUDENT LOANS.**

Section 6103(l)(13)(D) (relating to termination) is amended by striking ''December 31, 2004'' and inserting ''December 31, 2005''.

**SEC. 318. COVER OVER OF TAX ON DISTILLED SPIRITS.**

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking ''January 1, 2004'' and inserting ''January 1, 2006''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2003.

**SEC. 319. JOINT REVIEW OF STRATEGIC PLANS AND BUDGET FOR THE INTERNAL REVENUE SERVICE.**

(a) IN GENERAL.—Paragraph (2) of section 8021(f) (relating to joint reviews) is amended by striking ''2004'' and inserting ''2005''.

(b) REPORT.—Subparagraph (C) of section 8022(3) (regarding reports) is amended—

(1) by striking ''2004'' and inserting ''2005'', and

(2) by striking ''with respect to—'' and all that follows and inserting ''with respect to the matters addressed in the joint review referred to in section 8021(f)(2).''.

(c) TIME FOR JOINT REVIEW.—The joint review required by section 8021(f)(2) of the Internal Revenue Code of 1986 to be made before June 1, 2004, shall be treated as timely if made before June 1, 2005.

**SEC. 320. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.**

(a) IN GENERAL.—Subsection (f) of section 9812 is amended—

(1) by striking ''and'' at the end of paragraph (1), by striking paragraph (2), and by inserting after paragraph (1) the following new paragraphs:

''(2) on or after January 1, 2004, and before the date of the enactment of American Jobs Creation Act of 2004, and

''(3) after December 31, 2005.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for services furnished on or after December 31, 2003.

**SEC. 321. COMBINED EMPLOYMENT TAX REPORTING PROJECT.**

(a) IN GENERAL.—Paragraph (1) of section 976(b) of the Taxpayer Relief Act of 1997 (111 Stat. 898) is amended by striking ''for a period ending with the date which is 5 years after the date of the enactment of this Act'' and inserting ''during the period ending on December 31, 2005''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to disclosures on or after the date of the enactment of this Act.

**SEC. 322. CLEAN-FUEL VEHICLES.**

(a) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Paragraph (2) of section 30(b) (relating to phaseout) is amended to read as follows:

''(2) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2005, the credit otherwise allowable under subsection (a) (determined after the application of paragraph (1)) shall be reduced by 75 percent.''.

(b) DEDUCTION FOR QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—Subparagraph (B) of section 179A(b)(1) (relating to phaseout) is amended to read as follows:

''(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2005, the limit otherwise applicable under subparagraph (A) shall be reduced by 75 percent.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2003.

## TITLE IV—PERMANENT DEDUCTION FOR STATE AND LOCAL GENERAL RETAIL SALES TAXES

**SEC. 401. DEDUCTION OF STATE AND LOCAL GENERAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.**

(a) IN GENERAL.—Subsection (b) of section 164 (relating to definitions and special rules) is amended by adding at the end the following:

''(5) GENERAL SALES TAXES.—For purposes of subsection (a)—

''(A) ELECTION TO DEDUCT STATE AND LOCAL SALES TAXES IN LIEU OF STATE AND LOCAL INCOME TAXES.—

''(i) IN GENERAL.—At the election of the taxpayer for the taxable year, subsection (a) shall be applied—

''(I) without regard to the reference to State and local income taxes, and

''(II) as if State and local general sales taxes were referred to in a paragraph thereof.

''(B) DEFINITION OF GENERAL SALES TAX.—The term 'general sales tax' means a tax imposed at one rate with respect to the sale at retail of a broad range of classes of items.

''(C) SPECIAL RULES FOR FOOD, ETC.—In the case of items of food, clothing, medical supplies, and motor vehicles—

''(i) the fact that the tax does not apply with respect to some or all of such items shall not be taken into account in determining whether the tax applies with respect to a broad range of classes of items, and

''(ii) the fact that the rate of tax applicable with respect to some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

''(D) ITEMS TAXED AT DIFFERENT RATES.—Except in the case of a lower rate of tax applicable with respect to an item described in subparagraph (C), no deduction shall be allowed under this paragraph for any general sales tax imposed with respect to an item at a rate other than the general rate of tax.

''(E) COMPENSATING USE TAXES.—A compensating use tax with respect to an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term 'compensating use tax' means, with respect to any item, a tax which—

''(i) is imposed on the use, storage, or consumption of such item, and

''(ii) is complementary to a general sales tax, but only if a deduction is allowable under this paragraph with respect to items sold at retail in the taxing jurisdiction which are similar to such item.

''(F) SPECIAL RULE FOR MOTOR VEHICLES.—In the case of motor vehicles, if the rate of tax exceeds the general rate, such excess shall be disregarded and the general rate shall be treated as the rate of tax.

''(G) SEPARATELY STATED GENERAL SALES TAXES.—If the amount of any general sales tax is separately stated, then, to the extent that the amount so stated is paid by the consumer (other than in connection with the consumer's trade or business) to the seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

## TITLE V—PROVISIONS TO PREVENT TAX AVOIDANCE THROUGH INDIVIDUAL AND CORPORATE EXPATRIATION

### Subtitle A—Individual Expatriation

#### SEC. 501. IMPOSITION OF MARK-TO-MARKET TAX ON INDIVIDUALS WHO EXPATRIATE.

(a) IN GENERAL.—Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

**''SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATION.**

''(a) GENERAL RULES.—For purposes of this subtitle—

''(1) MARK TO MARKET.—Except as provided in subsections (d) and (f), all property of a covered expatriate to whom this section applies shall be treated as sold on the day before the expatriation date for its fair market value.

''(2) RECOGNITION OF GAIN OR LOSS.—In the case of any sale under paragraph (1)—

''(A) notwithstanding any other provision of this title, any gain arising from such sale shall be taken into account for the taxable year of the sale, and

''(B) any loss arising from such sale shall be taken into account for the taxable year of the sale to the extent otherwise provided by this title, except that section 1091 shall not apply to any such loss.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence.

''(3) EXCLUSION FOR CERTAIN GAIN.—

''(A) IN GENERAL.—The amount which, but for this paragraph, would be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $600,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (f)(2) shall be treated in the same manner as an amount required to be includible in gross income.

''(B) COST-OF-LIVING ADJUSTMENT.—

''(i) IN GENERAL.—In the case of an expatriation date occurring in any calendar year after 2004, the $600,000 amount under subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING RULES.—If any amount after adjustment under clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lower multiple of $1,000.

''(4) ELECTION TO CONTINUE TO BE TAXED AS UNITED STATES CITIZEN.—

''(A) IN GENERAL.—If a covered expatriate elects the application of this paragraph—

''(i) this section (other than this paragraph and subsection (i)) shall not apply to the expatriate, but

''(ii) in the case of property to which this section would apply but for such election, the expatriate shall be subject to tax under this title in the same manner as if the individual were a United States citizen.

''(B) REQUIREMENTS.—Subparagraph (A) shall not apply to an individual unless the individual—

''(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

''(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

''(iii) complies with such other requirements as the Secretary may prescribe.

''(C) ELECTION.—An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable. Such election shall also apply to property the basis of which is determined in whole or in part by reference to the property with respect to which the election was made.

''(b) ELECTION TO DEFER TAX.—

''(1) IN GENERAL.—If the taxpayer elects the application of this subsection with respect to any property treated as sold by reason of subsection (a), the payment of the additional tax attributable to such property shall be postponed until the due date of the return for the taxable year in which such property is disposed of (or, in the case of property disposed of in a transaction in which gain is not recognized in whole or in part, until such other date as the Secretary may prescribe).

''(2) DETERMINATION OF TAX WITH RESPECT TO PROPERTY.—For purposes of paragraph (1), the additional tax attributable to any property is an amount which bears the same ratio to the additional tax imposed by this chapter for the taxable year solely by reason of subsection (a) as the gain taken into account under subsection (a) with respect to such property bears to the total gain taken into account under subsection (a) with respect to all property to which subsection (a) applies.

''(3) TERMINATION OF POSTPONEMENT.—No tax may be postponed under this subsection later than the due date for the return of tax imposed by this chapter for the taxable year which includes the date of death of the expatriate (or, if earlier, the time that the security provided with respect to the property fails to meet the requirements of paragraph (4), unless the taxpayer corrects such failure within the time specified by the Secretary).

''(4) SECURITY.—

''(A) IN GENERAL.—No election may be made under paragraph (1) with respect to any property unless adequate security is provided to the Secretary with respect to such property.

''(B) ADEQUATE SECURITY.—For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

''(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2) for the property, or

''(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

''(5) WAIVER OF CERTAIN RIGHTS.—No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

''(6) ELECTIONS.—An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

''(7) INTEREST.—For purposes of section 6601—

''(A) the last date for the payment of tax shall be determined without regard to the election under this subsection, and

''(B) section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(c) COVERED EXPATRIATE.—For purposes of this section—

''(1) IN GENERAL.—Except as provided in paragraph (2), the term 'covered expatriate' means an expatriate.

''(2) EXCEPTIONS.—An individual shall not be treated as a covered expatriate if—

''(A) the individual—

''(i) became at birth a citizen of the United States and a citizen of another country and, as of the expatriation date, continues to be a citizen of, and is taxed as a resident of, such other country, and

''(ii) has not been a resident of the United States (as defined in section 7701(b)(1)(A)(ii)) during the 5 taxable years ending with the taxable year during which the expatriation date occurs, or

''(B)(i) the individual's relinquishment of United States citizenship occurs before such individual attains age 18½, and

''(ii) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

''(d) EXEMPT PROPERTY; SPECIAL RULES FOR PENSION PLANS.—

''(1) EXEMPT PROPERTY.—This section shall not apply to the following:

''(A) UNITED STATES REAL PROPERTY INTERESTS.—Any United States real property interest (as defined in section 897(c)(1)), other than stock of a United States real property holding corporation which does not, on the day before the expatriation date, meet the requirements of section 897(c)(2).

''(B) SPECIFIED PROPERTY.—Any property or interest in property not described in subparagraph (A) which the Secretary specifies in regulations.

''(2) SPECIAL RULES FOR CERTAIN RETIREMENT PLANS.—

''(A) IN GENERAL.—If a covered expatriate holds on the day before the expatriation date any interest in a retirement plan to which this paragraph applies—

''(i) such interest shall not be treated as sold for purposes of subsection (a)(1), but

''(ii) an amount equal to the present value of the expatriate's nonforfeitable accrued benefit shall be treated as having been received by such individual on such date as a distribution under the plan.

''(B) TREATMENT OF SUBSEQUENT DISTRIBUTIONS.—In the case of any distribution on or after the expatriation date to or on behalf of the covered expatriate from a plan from which the expatriate was treated as receiving a distribution under subparagraph (A), the amount otherwise includible in gross income by reason of the subsequent distribution shall be reduced by the excess of the amount includible in gross income under subparagraph (A) over any portion of such amount to which this subparagraph previously applied.

''(C) TREATMENT OF SUBSEQUENT DISTRIBUTIONS BY PLAN.—For purposes of this title, a

retirement plan to which this paragraph applies, and any person acting on the plan's behalf, shall treat any subsequent distribution described in subparagraph (B) in the same manner as such distribution would be treated without regard to this paragraph.

''(D) APPLICABLE PLANS.—This paragraph shall apply to—

''(i) any qualified retirement plan (as defined in section 4974(c)),

''(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A), and

''(iii) to the extent provided in regulations, any foreign pension plan or similar retirement arrangements or programs.

''(e) DEFINITIONS.—For purposes of this section—

''(1) EXPATRIATE.—The term 'expatriate' means—

''(A) any United States citizen who relinquishes citizenship, and

''(B) any long-term resident of the United States who—

''(i) ceases to be a lawful permanent resident of the United States (within the meaning of section 7701(b)(6)), or

''(ii) commences to be treated as a resident of a foreign country under the provisions of a tax treaty between the United States and the foreign country and who does not waive the benefits of such treaty applicable to residents of the foreign country.

''(2) EXPATRIATION DATE.—The term 'expatriation date' means—

''(A) the date an individual relinquishes United States citizenship, or

''(B) in the case of a long-term resident of the United States, the date of the event described in clause (i) or (ii) of paragraph (1)(B).

''(3) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing United States citizenship on the earliest of—

''(A) the date the individual renounces such individual's United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

''(B) the date the individual furnishes to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

''(C) the date the United States Department of State issues to the individual a certificate of loss of nationality, or

''(D) the date a court of the United States cancels a naturalized citizen's certificate of naturalization.

Subparagraph (A) or (B) shall not apply to any individual unless the renunciation or voluntary relinquishment is subsequently approved by the issuance to the individual of a certificate of loss of nationality by the United States Department of State.

''(4) LONG-TERM RESIDENT.—The term 'long-term resident' has the meaning given to such term by section 877(e)(2).

''(f) SPECIAL RULES APPLICABLE TO BENEFICIARIES' INTERESTS IN TRUST.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if an individual is determined under paragraph (3) to hold an interest in a trust on the day before the expatriation date—

''(A) the individual shall not be treated as having sold such interest,

''(B) such interest shall be treated as a separate share in the trust, and

''(C)(i) such separate share shall be treated as a separate trust consisting of the assets allocable to such share,

''(ii) the separate trust shall be treated as having sold its assets on the day before the expatriation date for their fair market value and as having distributed all of its assets to the individual as of such time, and

''(iii) the individual shall be treated as having recontributed the assets to the separate trust.

Subsection (a)(2) shall apply to any income, gain, or loss of the individual arising from a distribution described in subparagraph (C)(ii). In determining the amount of such distribution, proper adjustments shall be made for liabilities of the trust allocable to an individual's share in the trust.

''(2) SPECIAL RULES FOR INTERESTS IN QUALIFIED TRUSTS.—

''(A) IN GENERAL.—If the trust interest described in paragraph (1) is an interest in a qualified trust—

''(i) paragraph (1) and subsection (a) shall not apply, and

''(ii) in addition to any other tax imposed by this title, there is hereby imposed on each distribution with respect to such interest a tax in the amount determined under subparagraph (B).

''(B) AMOUNT OF TAX.—The amount of tax under subparagraph (A)(ii) shall be equal to the lesser of—

''(i) the highest rate of tax imposed by section 1(e) for the taxable year which includes the day before the expatriation date, multiplied by the amount of the distribution, or

''(ii) the balance in the deferred tax account immediately before the distribution determined without regard to any increases under subparagraph (C)(ii) after the 30th day preceding the distribution.

''(C) DEFERRED TAX ACCOUNT.—For purposes of subparagraph (B)(ii)—

''(i) OPENING BALANCE.—The opening balance in a deferred tax account with respect to any trust interest is an amount equal to the tax which would have been imposed on the allocable expatriation gain with respect to the trust interest if such gain had been included in gross income under subsection (a).

''(ii) INCREASE FOR INTEREST.—The balance in the deferred tax account shall be increased by the amount of interest determined (on the balance in the account at the time the interest accrues), for periods after the 90th day after the expatriation date, by using the rates and method applicable under section 6621 for underpayments of tax for such periods, except that section 6621(a)(2) shall be applied by substituting '5 percentage points' for '3 percentage points' in subparagraph (B) thereof.

''(iii) DECREASE FOR TAXES PREVIOUSLY PAID.—The balance in the tax deferred account shall be reduced—

''(I) by the amount of taxes imposed by subparagraph (A) on any distribution to the person holding the trust interest, and

''(II) in the case of a person holding a nonvested interest, to the extent provided in regulations, by the amount of taxes imposed by subparagraph (A) on distributions from the trust with respect to nonvested interests not held by such person.

''(D) ALLOCABLE EXPATRIATION GAIN.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary's interest in a trust is the amount of gain which would be allocable to such beneficiary's vested and nonvested interests in the trust if the beneficiary held directly all assets allocable to such interests.

''(E) TAX DEDUCTED AND WITHHELD.—

''(i) IN GENERAL.—The tax imposed by subparagraph (A)(ii) shall be deducted and withheld by the trustees from the distribution to which it relates.

''(ii) EXCEPTION WHERE FAILURE TO WAIVE TREATY RIGHTS.—If an amount may not be deducted and withheld under clause (i) by reason of the distributee failing to waive any treaty right with respect to such distribution—

''(I) the tax imposed by subparagraph (A)(ii) shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax, and

''(II) any other beneficiary of the trust shall be entitled to recover from the distributee the amount of such tax imposed on the other beneficiary.

''(F) DISPOSITION.—If a trust ceases to be a qualified trust at any time, a covered expatriate disposes of an interest in a qualified trust, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(ii), there is hereby imposed a tax equal to the lesser of—

''(i) the tax determined under paragraph (1) as if the day before the expatriation date were the date of such cessation, disposition, or death, whichever is applicable, or

''(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each trustee shall be personally liable for the amount of such tax and any other beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate the amount of such tax imposed on the other beneficiary.

''(G) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

''(i) QUALIFIED TRUST.—The term 'qualified trust' means a trust which is described in section 7701(a)(30)(E).

''(ii) VESTED INTEREST.—The term 'vested interest' means any interest which, as of the day before the expatriation date, is vested in the beneficiary.

''(iii) NONVESTED INTEREST.—The term 'nonvested interest' means, with respect to any beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

''(iv) ADJUSTMENTS.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

''(v) COORDINATION WITH RETIREMENT PLAN RULES.—This subsection shall not apply to an interest in a trust which is part of a retirement plan to which subsection (d)(2) applies.

''(3) DETERMINATION OF BENEFICIARIES' INTEREST IN TRUST.—

''(A) DETERMINATIONS UNDER PARAGRAPH (1).—For purposes of paragraph (1), a beneficiary's interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar document, historical patterns of trust distributions, and the existence of and functions performed by a trust protector or any similar adviser.

''(B) OTHER DETERMINATIONS.—For purposes of this section—

''(i) CONSTRUCTIVE OWNERSHIP.—If a beneficiary of a trust is a corporation, partnership, trust, or estate, the shareholders, partners, or beneficiaries shall be deemed to be the trust beneficiaries for purposes of this section.

''(ii) TAXPAYER RETURN POSITION.—A taxpayer shall clearly indicate on its income tax return—

''(I) the methodology used to determine that taxpayer's trust interest under this section, and

''(II) if the taxpayer knows (or has reason to know) that any other beneficiary of such

trust is using a different methodology to determine such beneficiary's trust interest under this section.

''(g) TERMINATION OF DEFERRALS, ETC.—In the case of any covered expatriate, notwithstanding any other provision of this title—

''(1) any period during which recognition of income or gain is deferred shall terminate on the day before the expatriation date, and

''(2) any extension of time for payment of tax shall cease to apply on the day before the expatriation date and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

''(h) IMPOSITION OF TENTATIVE TAX.—

''(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately before the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date.

''(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

''(3) TREATMENT OF TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

''(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain includible in gross income by reason of this section.

''(i) SPECIAL LIENS FOR DEFERRED TAX AMOUNTS.—

''(1) IMPOSITION OF LIEN.—

''(A) IN GENERAL.—If a covered expatriate makes an election under subsection (a)(4) or (b) which results in the deferral of any tax imposed by reason of subsection (a), the deferred amount (including any interest, additional amount, addition to tax, assessable penalty, and costs attributable to the deferred amount) shall be a lien in favor of the United States on all property of the expatriate located in the United States (without regard to whether this section applies to the property).

''(B) DEFERRED AMOUNT.—For purposes of this subsection, the deferred amount is the amount of the increase in the covered expatriate's income tax which, but for the election under subsection (a)(4) or (b), would have occurred by reason of this section for the taxable year including the expatriation date.

''(2) PERIOD OF LIEN.—The lien imposed by this subsection shall arise on the expatriation date and continue until—

''(A) the liability for tax by reason of this section is satisfied or has become unenforceable by reason of lapse of time, or

''(B) it is established to the satisfaction of the Secretary that no further tax liability may arise by reason of this section.

''(3) CERTAIN RULES APPLY.—The rules set forth in paragraphs (1), (3), and (4) of section 6324A(d) shall apply with respect to the lien imposed by this subsection as if it were a lien imposed by section 6324A.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''.

(b) INCLUSION IN INCOME OF GIFTS AND BEQUESTS RECEIVED BY UNITED STATES CITIZENS AND RESIDENTS FROM EXPATRIATES.—Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

''(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

''(1) IN GENERAL.—Subsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

''(2) EXCEPTIONS FOR TRANSFERS OTHERWISE SUBJECT TO ESTATE OR GIFT TAX.—Paragraph (1) shall not apply to any property if either—

''(A) the gift, bequest, devise, or inheritance is—

''(i) shown on a timely filed return of tax imposed by chapter 12 as a taxable gift by the covered expatriate, or

''(ii) included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate, or

''(B) no such return was timely filed but no such return would have been required to be filed even if the covered expatriate were a citizen or long-term resident of the United States.''.

(c) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 7701(a) is amended by adding at the end the following new paragraph:

''(48) TERMINATION OF UNITED STATES CITIZENSHIP.—

''(A) IN GENERAL.—An individual shall not cease to be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3).

''(B) DUAL CITIZENS.—Under regulations prescribed by the Secretary, subparagraph (A) shall not apply to an individual who became at birth a citizen of the United States and a citizen of another country.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 877 is amended by adding at the end the following new subsection:

''(g) APPLICATION.—This section shall not apply to an expatriate (as defined in section 877A(e)) whose expatriation date (as so defined) occurs after the date of the enactment of this subsection.''.

(2) Section 2107 is amended by adding at the end the following new subsection:

''(f) APPLICATION.—This section shall not apply to any expatriate subject to section 877A.''.

(3) Section 2501(a)(3) is amended by adding at the end the following new subparagraph:

''(F) APPLICATION.—This paragraph shall not apply to any expatriate subject to section 877A.''.

(4)(A) Paragraph (1) of section 6039G(d) is amended by inserting ''or 877A'' after ''section 877''.

(B) The second sentence of section 6039G(e) is amended by inserting ''or who relinquishes United States citizenship (within the meaning of section 877A(e)(3))'' after ''877(a))''.

(C) Section 6039G(f) is amended by inserting ''or 877A(e)(2)(B)'' after ''877(e)(1)''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart A of part II of subchapter N of chapter 1 is amended by inserting after the item relating to section 877 the following new item:

''Sec. 877A. Tax responsibilities of expatriation.''.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to expatriates (within the meaning of section 877A(e) of the Internal Revenue Code of 1986, as added by this section) whose expatriation date (as so defined) occurs after the date of the enactment of this Act.

(2) GIFTS AND BEQUESTS.—Section 102(d) of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to gifts and bequests received after the date of the enactment of this Act, from an individual or the estate of an individual whose expatriation date (as so defined) occurs after such date.

(3) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of the Internal Revenue Code of 1986, as added by this section, shall in no event occur before the 90th day after the date of the enactment of this Act.

### Subtitle B—Corporate Expatriation

#### SEC. 511. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) of the Internal Revenue Code of 1986 (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership or related foreign partnerships (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).

''(III) RELATED FOREIGN PARTNERSHIP.—A foreign partnership is related to a domestic partnership if they are under common control (within the meaning of section 482), or they shared the same trademark or tradename.''

(b) EFFECTIVE DATES.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

## TITLE VI—OTHER REVENUE OFFSETS

### Subtitle A—Provisions Designed To Curtail Tax Shelters

#### SEC. 601. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

''(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

''(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

''(I) depreciation,

''(II) any tax credit, or

''(III) any other deduction as provided in guidance by the Secretary, and

''(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

''(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

#### SEC. 602. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

**''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE REPORTABLE TRANSACTION INFORMATION WITH RETURN OR STATEMENT.**

''(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a reportable transaction which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be $50,000.

''(2) LISTED TRANSACTION.—The amount of the penalty under subsection (a) with respect to a listed transaction shall be $100,000.

''(3) INCREASE IN PENALTY FOR LARGE ENTITIES AND HIGH NET WORTH INDIVIDUALS.—

''(A) IN GENERAL.—In the case of a failure under subsection (a) by—

''(i) a large entity, or

''(ii) a high net worth individual,

the penalty under paragraph (1) or (2) shall be twice the amount determined without regard to this paragraph.

''(B) LARGE ENTITY.—For purposes of subparagraph (A), the term 'large entity' means, with respect to any taxable year, a person (other than a natural person) with gross receipts in excess of $10,000,000 for the taxable year in which the reportable transaction occurs or the preceding taxable year. Rules similar to the rules of paragraph (2) and subparagraphs (B), (C), and (D) of paragraph (3) of section 448(c) shall apply for purposes of this subparagraph.

''(C) HIGH NET WORTH INDIVIDUAL.—For purposes of subparagraph (A), the term 'high net worth individual' means, with respect to a reportable transaction, a natural person whose net worth exceeds $2,000,000 immediately before the transaction.

''(c) DEFINITIONS.—For purposes of this section—

''(1) REPORTABLE TRANSACTION.—The term 'reportable transaction' means any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion.

''(2) LISTED TRANSACTION.—Except as provided in regulations, the term 'listed transaction' means a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

''(d) AUTHORITY TO RESCIND PENALTY.—

''(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of any penalty imposed by this section with respect to any violation if—

''(A) the violation is with respect to a reportable transaction other than a listed transaction,

''(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

''(C) it is shown that the violation is due to an unintentional mistake of fact;

''(D) imposing the penalty would be against equity and good conscience, and

''(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

''(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner's sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or

the head of such Office for a determination under paragraph (1).

''(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

''(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

''(A) the facts and circumstances of the transaction,

''(B) the reasons for the rescission, and

''(C) the amount of the penalty rescinded.

''(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

''(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

''(B) a description of each penalty rescinded under this subsection and the reasons therefor.

''(e) PENALTY REPORTED TO SEC.—In the case of a person—

''(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

''(2) which—

''(A) is required to pay a penalty under this section with respect to a listed transaction,

''(B) is required to pay a penalty under section 6662A with respect to any reportable transaction at a rate prescribed under section 6662A(c), or

''(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

''(f) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under this title.''.

(b) DISCLOSURE BY SECRETARY.—

(1) IN GENERAL.—Section 6103 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

''(q) DISCLOSURE RELATING TO PAYMENTS OF CERTAIN PENALTIES.—Notwithstanding any other provision of this section, the Secretary shall make public the name of any person required to pay a penalty described in section 6707A(e)(2) and the amount of the penalty.''.

(2) RECORDS.—Section 6103(p)(3)(A) is amended by striking ''or (n)'' and inserting ''(n), or (q)''.

(c) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include reportable transaction information with return or statement.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

**SEC. 603. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER REPORTABLE TRANSACTIONS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.**

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

**''SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO REPORTABLE TRANSACTIONS.**

''(a) IMPOSITION OF PENALTY.—If a taxpayer has a reportable transaction understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

''(b) REPORTABLE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'reportable transaction understatement' means the sum of—

''(A) the product of—

''(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer's treatment of such item (as shown on the taxpayer's return of tax), and

''(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

''(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer's treatment of an item to which this section applies (as shown on the taxpayer's return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

''(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

''(A) any listed transaction, and

''(B) any reportable transaction (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

''(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

''(1) IN GENERAL.—Subsection (a) shall be applied by substituting '30 percent' for '20 percent' with respect to the portion of any reportable transaction understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

''(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

''(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel's delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

''(d) DEFINITIONS OF REPORTABLE AND LISTED TRANSACTIONS.—For purposes of this section, the terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).

''(e) SPECIAL RULES.—

''(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

''(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

''(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of reportable transaction understatements and noneconomic substance transaction understatements.

''(2) COORDINATION WITH OTHER PENALTIES.—

''(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a reportable transaction understatement and a noneconomic substance transaction understatement.

''(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

''(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any reportable transaction understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

''(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).

''(5) CROSS REFERENCE.—

**''For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).''.**

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

''The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.''.

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

''(d) REASONABLE CAUSE EXCEPTION FOR REPORTABLE TRANSACTION UNDERSTATEMENTS.—

''(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

''(2) SPECIAL RULES.—Paragraph (1) shall not apply to any reportable transaction understatement unless—

''(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

''(B) there is or was substantial authority for such treatment, and

''(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph (A) if the penalty for such failure was rescinded under section 6707A(d).

''(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

''(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

''(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

''(ii) relates solely to the taxpayer's chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

''(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

''(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

''(I) the tax advisor is described in clause (ii), or

''(II) the opinion is described in clause (iii).

''(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

''(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

''(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

''(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained,

''(IV) has an arrangement with respect to the transaction which provides that contractual disputes between the taxpayer and the advisor are to be settled by arbitration or which limits damages by reference to fees paid to the advisor for such transaction, or

''(V) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

''(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

''(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

''(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

''(III) does not identify and consider all relevant facts,

''(IV) is not signed by all individuals who are principal authors of the opinion, or

''(V) fails to meet any other requirement as the Secretary may prescribe.''.

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting ''FOR UNDERPAYMENTS'' after ''EXCEPTION''.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking ''(as defined in section 6662(d)(2)(C)(iii))'' in subparagraph (B)(i), and

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

''(C) TAX SHELTER.—For purposes of subparagraph (B), the term 'tax shelter' means—

''(i) a partnership or other entity,

''(ii) any investment plan or arrangement, or

''(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.''.

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking ''this part'' and inserting ''section 6662 or 6663''.

(5) Subsection (b) of section 7525 is amended by striking ''section 6662(d)(2)(C)(iii)'' and inserting ''section 1274(b)(3)(C)''.

(6)(A) The heading for section 6662 is amended to read as follows:

**''SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.''.**

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

''Sec. 6662. Imposition of accuracy-related penalty on underpayments.

''Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to reportable transactions.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

**SEC. 604. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.**

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

**''SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.**

''(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

''(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

''(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

''(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

''(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

''(B) the transaction fails to meet the requirements of any similar rule of law.

''(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

''(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

''(2) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of paragraph (1).

''(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

''(f) CROSS REFERENCES.—

**''(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e).**

**''(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).''.**

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

''Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

**SEC. 605. MODIFICATIONS OF SUBSTANTIAL UNDERSTATEMENT PENALTY FOR NONREPORTABLE TRANSACTIONS.**

(a) SUBSTANTIAL UNDERSTATEMENT OF CORPORATIONS.—Section 6662(d)(1)(B) (relating to special rule for corporations) is amended to read as follows:

''(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an S corporation or a personal holding company (as defined in section 542), there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) 10 percent of the tax required to be shown on the return for the taxable year (or, if greater, $10,000), or

''(ii) $10,000,000.''.

(b) REDUCTION FOR UNDERSTATEMENT OF TAXPAYER DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—

(1) IN GENERAL.—Section 6662(d)(2)(B)(i) (relating to substantial authority) is amended to read as follows:

''(i) the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment, or''.

(2) CONFORMING AMENDMENT.—Section 6662(d) is amended by adding at the end the following new paragraph:

''(3) SECRETARIAL LIST.—For purposes of this subsection, section 6664(d)(2), and section 6694(a)(1), the Secretary may prescribe a list of positions for which the Secretary believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. Such list (and any revisions thereof) shall be published in the Federal Register or the Internal Revenue Bulletin.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 606. TAX SHELTER EXCEPTION TO CONFIDENTIALITY PRIVILEGES RELATING TO TAXPAYER COMMUNICATIONS.**

(a) IN GENERAL.—Section 7525(b) (relating to section not to apply to communications regarding corporate tax shelters) is amended to read as follows:

''(b) SECTION NOT TO APPLY TO COMMUNICATIONS REGARDING TAX SHELTERS.—The privilege under subsection (a) shall not apply to any written communication which is—

''(1) between a federally authorized tax practitioner and—

''(A) any person,

''(B) any director, officer, employee, agent, or representative of the person, or

''(C) any other person holding a capital or profits interest in the person, and

''(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

**SEC. 607. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

**''SEC. 6111. DISCLOSURE OF REPORTABLE TRANSACTIONS.**

''(a) IN GENERAL.—Each material advisor with respect to any reportable transaction shall make a return (in such form as the Secretary may prescribe) setting forth—

''(1) information identifying and describing the transaction,

''(2) information describing any potential tax benefits expected to result from the transaction, and

''(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date specified by the Secretary.

''(b) DEFINITIONS.—For purposes of this section—

''(1) MATERIAL ADVISOR.—

''(A) IN GENERAL.—The term 'material advisor' means any person—

''(i) who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction, and

''(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

''(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

''(i) $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons, and

''(ii) $250,000 in any other case.

''(2) REPORTABLE TRANSACTION.—The term 'reportable transaction' has the meaning given to such term by section 6707A(c).

''(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

''(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

''(2) exemptions from the requirements of this section, and

''(3) such rules as may be necessary or appropriate to carry out the purposes of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6111. Disclosure of reportable transactions.''.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

**''SEC. 6112. MATERIAL ADVISORS OF REPORTABLE TRANSACTIONS MUST KEEP LISTS OF ADVISEES.**

''(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any reportable transaction (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

''(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such transaction, and

''(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.''.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting ''written'' before ''request'' in paragraph (1)(A), and

(ii) by striking ''shall prescribe'' in paragraph (2) and inserting ''may prescribe''.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

''Sec. 6112. Material advisors of reportable transactions must keep lists of advisees.''.

(3)(A) The heading for section 6708 is amended to read as follows:

**''SEC. 6708. FAILURE TO MAINTAIN LISTS OF ADVISEES WITH RESPECT TO REPORTABLE TRANSACTIONS.''.**

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

''Sec. 6708. Failure to maintain lists of advisees with respect to reportable transactions.''.

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Subparagraph (A) of section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

''For purposes of this section, the identity of any person on such list shall not be privileged.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

**SEC. 608. MODIFICATIONS TO PENALTY FOR FAILURE TO REGISTER TAX SHELTERS.**

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

**''SEC. 6707. FAILURE TO FURNISH INFORMATION REGARDING REPORTABLE TRANSACTIONS.**

''(a) IN GENERAL.—If a person who is required to file a return under section 6111(a) with respect to any reportable transaction—

''(1) fails to file such return on or before the date prescribed therefor, or

''(2) files false or incomplete information with the Secretary with respect to such transaction,

such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be $50,000.

''(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

''(A) $200,000, or

''(B) 50 percent of the gross income derived by such person with respect to aid, assistance, or advice which is provided with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting '75 percent' for '50 percent' in the case of an intentional failure or act described in subsection (a).

''(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) shall apply to any penalty imposed under this section.

''(d) REPORTABLE AND LISTED TRANSACTIONS.—The terms 'reportable transaction' and 'listed transaction' have the respective meanings given to such terms by section 6707A(c).''.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking ''tax shelters'' and inserting ''reportable transactions''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for which is after the date of the enactment of this Act.

**SEC. 609. MODIFICATION OF PENALTY FOR FAILURE TO MAINTAIN LISTS OF INVESTORS.**

(a) IN GENERAL.—Subsection (a) of section 6708 is amended to read as follows:

''(a) IMPOSITION OF PENALTY.—

''(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary's request, such person shall pay a penalty of $10,000 for each day of such failure after such 20th day.

''(2) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if such failure is due to reasonable cause.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests made after the date of the enactment of this Act.

**SEC. 610. MODIFICATION OF ACTIONS TO ENJOIN CERTAIN CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.**

(a) IN GENERAL.—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

''(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

''(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

''(1) that the person has engaged in any specified conduct, and

''(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

''(c) SPECIFIED CONDUCT.—For purposes of this section, the term 'specified conduct'

means any action, or failure to take action, which is—

''(1) subject to penalty under section 6700, 6701, 6707, or 6708, or

''(2) in violation of any requirement under regulations issued under section 320 of title 31, United States Code.''.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 7408 is amended to read as follows:

**''SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTERS AND REPORTABLE TRANSACTIONS.''.**

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

''Sec. 7408. Actions to enjoin specified conduct related to tax shelters and reportable transactions.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

**SEC. 611. UNDERSTATEMENT OF TAXPAYER'S LIABILITY BY INCOME TAX RETURN PREPARER.**

(a) STANDARDS CONFORMED TO TAXPAYER STANDARDS.—Section 6694(a) (relating to understatements due to unrealistic positions) is amended—

(1) by striking ''realistic possibility of being sustained on its merits'' in paragraph (1) and inserting ''reasonable belief that the tax treatment in such position was more likely than not the proper treatment'',

(2) by striking ''or was frivolous'' in paragraph (3) and inserting ''or there was no reasonable basis for the tax treatment of such position'', and

(3) by striking ''UNREALISTIC'' in the heading and inserting ''IMPROPER''.

(b) AMOUNT OF PENALTY.—Section 6694 is amended—

(1) by striking ''$250'' in subsection (a) and inserting ''$1,000'', and

(2) by striking ''$1,000'' in subsection (b) and inserting ''$5,000''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to documents prepared after the date of the enactment of this Act.

**SEC. 612. PENALTY ON FAILURE TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.**

(a) IN GENERAL.—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

''(5) FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.—

''(A) PENALTY AUTHORIZED.—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

''(B) AMOUNT OF PENALTY.—

''(i) IN GENERAL.—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed $10,000.

''(ii) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

''(I) such violation was due to reasonable cause, and

''(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

''(C) WILLFUL VIOLATIONS.—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314—

''(i) the maximum penalty under subparagraph (B)(i) shall be increased to the greater of—

''(I) $100,000, or

''(II) 50 percent of the amount determined under subparagraph (D), and

''(ii) subparagraph (B)(ii) shall not apply.

''(D) AMOUNT.—The amount determined under this subparagraph is—

''(i) in the case of a violation involving a transaction, the amount of the transaction, or

''(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

**SEC. 613. FRIVOLOUS TAX SUBMISSIONS.**

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

**''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(e) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

**SEC. 614. REGULATION OF INDIVIDUALS PRACTICING BEFORE THE DEPARTMENT OF TREASURY.**

(a) CENSURE; IMPOSITION OF PENALTY.—

(1) IN GENERAL.—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting '', or censure,'' after ''Department'', and

(B) by adding at the end the following new flush sentence:

''The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty shall not exceed the gross income derived (or to be derived) from the conduct giving rise to the penalty and may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) TAX SHELTER OPINIONS, ETC.—Section 330 of such title 31 is amended by adding at the end the following new subsection:

''(d) Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary of the Treasury to impose standards applicable to the rendering of written advice with respect to any entity, transaction plan or arrangement, or other plan or arrangement, which is of a type which the Secretary determines as having a potential for tax avoidance or evasion.''.

**SEC. 615. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.**

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking ''a penalty'' and all that follows through the period in the first sentence of subsection (a) and inserting ''a penalty determined under subsection (b)'', and

(3) by inserting after subsection (a) the following new subsections:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

''(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

**SEC. 616. STATUTE OF LIMITATIONS FOR TAXABLE YEARS FOR WHICH REQUIRED LISTED TRANSACTIONS NOT REPORTED.**

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(10) LISTED TRANSACTIONS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a listed transaction (as defined in section 6707A(c)(2)) which is required under section 6011 to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 1 year after the earlier of—

''(A) the date on which the Secretary is furnished the information so required; or

''(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

**SEC. 617. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONDISCLOSED REPORTABLE AND NONECONOMIC SUBSTANCE TRANSACTIONS.**

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONDISCLOSED REPORTABLE TRANSACTIONS AND NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to—

''(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

''(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

**SEC. 618. AUTHORIZATION OF APPROPRIATIONS FOR TAX LAW ENFORCEMENT.**

There is authorized to be appropriated $300,000,000 for each fiscal year beginning after September 30, 2003, for the purpose of carrying out tax law enforcement to combat tax avoidance transactions and other tax shelters, including the use of offshore financial accounts to conceal taxable income.

**SEC. 619. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.**

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting ''the tax liability or'' after ''respect to,'' in paragraph (1),

(2) by inserting ''aid, assistance, procurement, or advice with respect to such'' before ''portion'' both places it appears in paragraphs (2) and (3), and

(3) by inserting ''instance of aid, assistance, procurement, or advice or each such'' before ''document'' in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

''(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

''(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed 100 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty.

''(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

''(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.''.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

''(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be deductible by the person who is subject to such penalty or who makes such payment.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

**SEC. 620. STUDY ON INFORMATION SHARING AMONG LAW ENFORCEMENT AGENCIES.**

(a) STUDY.—The Secretary of the Treasury shall, jointly with the Attorney General, the Securities and Exchange Commission, and the Commissioner of Internal Revenue, study the effectiveness of, and ways to improve, the sharing of information related to the promotion of prohibited tax shelters or tax avoidance schemes and other potential violations of Federal laws.

(b) REPORT.—The Secretary shall, not later than 1 year after the date of the enactment of this Act, report to the appropriate committees of the Congress the results of the study under subsection (a), including any recommendations for legislation.

**Subtitle B—Enron-Related Tax Shelter Provisions**

**SEC. 631. LIMITATION ON TRANSFER OR IMPORTATION OF BUILT-IN LOSSES.**

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATIONS ON BUILT-IN LOSSES.—

''(1) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

''(A) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in subparagraph (B) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(B) PROPERTY DESCRIBED.—For purposes of subparagraph (A), property is described in this subparagraph if—

''(i) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(ii) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(C) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of subparagraph (A), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in subparagraph

(B) which is transferred in such transaction would (but for this paragraph) exceed the fair market value of such property immediately after such transaction.

''(2) LIMITATION ON TRANSFER OF BUILT-IN LOSSES IN SECTION 351 TRANSACTIONS.—

''(A) IN GENERAL.—If—

''(i) property is transferred by a transferor in any transaction which is described in subsection (a) and which is not described in paragraph (1) of this subsection, and

''(ii) the transferee's aggregate adjusted bases of such property so transferred would (but for this paragraph) exceed the fair market value of such property immediately after such transaction,

then, notwithstanding subsection (a), the transferee's aggregate adjusted bases of the property so transferred shall not exceed the fair market value of such property immediately after such transaction.

''(B) ALLOCATION OF BASIS REDUCTION.—The aggregate reduction in basis by reason of subparagraph (A) shall be allocated among the property so transferred in proportion to their respective built-in losses immediately before the transaction.

''(C) EXCEPTION FOR TRANSFERS WITHIN AFFILIATED GROUP.—Subparagraph (A) shall not apply to any transaction if the transferor owns stock in the transferee meeting the requirements of section 1504(a)(2). In the case of property to which subparagraph (A) does not apply by reason of the preceding sentence, the transferor's basis in the stock received for such property shall not exceed its fair market value immediately after the transfer.''.

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(1)(B) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to transactions after December 31, 2003.

(2) LIQUIDATIONS.—The amendment made by subsection (b) shall apply to liquidations after December 31, 2003.

**SEC. 632. NO REDUCTION OF BASIS UNDER SECTION 734 IN STOCK HELD BY PARTNERSHIP IN CORPORATE PARTNER.**

(a) IN GENERAL.—Section 755 is amended by adding at the end the following new subsection:

''(c) NO ALLOCATION OF BASIS DECREASE TO STOCK OF CORPORATE PARTNER.—In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

''(1) no allocation may be made to stock in a corporation (or any person which is related (within the meaning of section 267(b) or 707(b)(1)) to such corporation) which is a partner in the partnership, and

''(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property in such manner as the Secretary may prescribe.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after February 13, 2003.

**SEC. 633. REPEAL OF SPECIAL RULES FOR FASITS.**

(a) IN GENERAL.—Part V of subchapter M of chapter 1 (relating to financial asset securitization investment trusts) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (6) of section 56(g) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(2) Clause (ii) of section 382(l)(4)(B) is amended by striking ''a REMIC to which part IV of subchapter M applies, or a FASIT to which part V of subchapter M applies,'' and inserting ''or a REMIC to which part IV of subchapter M applies,''.

(3) Paragraph (1) of section 582(c) is amended by striking '', and any regular interest in a FASIT,''.

(4) Subparagraph (E) of section 856(c)(5) is amended by striking the last sentence.

(5)(A) Section 860G(a)(1) is amended by adding at the end the following new sentence: ''An interest shall not fail to qualify as a regular interest solely because the specified principal amount of the regular interest (or the amount of interest accrued on the regular interest) can be reduced as a result of the nonoccurrence of 1 or more contingent payments with respect to any reverse mortgage loan held by the REMIC if, on the startup day for the REMIC, the sponsor reasonably believes that all principal and interest due under the regular interest will be paid at or prior to the liquidation of the REMIC.''.

(B) The last sentence of section 860G(a)(3) is amended by inserting '', and any reverse mortgage loan (and each balance increase on such loan meeting the requirements of subparagraph (A)(iii)) shall be treated as an obligation secured by an interest in real property'' before the period at the end.

(6) Paragraph (3) of section 860G(a) is amended by adding ''and'' at the end of subparagraph (B), by striking '', and'' at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

(7) Section 860G(a)(3), as amended by paragraph (6), is amended by adding at the end the following new sentence: ''For purposes of subparagraph (A), if more than 50 percent of the obligations transferred to, or purchased by, the REMIC are originated by the United States or any State (or any political subdivision, agency, or instrumentality of the United States or any State) and are principally secured by an interest in real property, then each obligation transferred to, or purchased by, the REMIC shall be treated as secured by an interest in real property.''.

(8)(A) Section 860G(a)(3)(A) is amended by striking ''or'' at the end of clause (i), by inserting ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) represents an increase in the principal amount under the original terms of an obligation described in clause (i) or (ii) if such increase—

''(I) is attributable to an advance made to the obligor pursuant to the original terms of the obligation,

''(II) occurs after the startup day, and

''(III) is purchased by the REMIC pursuant to a fixed price contract in effect on the startup day.''.

(B) Section 860G(a)(7)(B) is amended to read as follows:

''(B) QUALIFIED RESERVE FUND.—For purposes of subparagraph (A), the term 'qualified reserve fund' means any reasonably required reserve to—

''(i) provide for full payment of expenses of the REMIC or amounts due on regular interests in the event of defaults on qualified mortgages or lower than expected returns on cash flow investments, or

''(ii) provide a source of funds for the purchase of obligations described in clause (ii) or (iii) of paragraph (3)(A).

The aggregate fair market value of the assets held in any such reserve shall not exceed 50 percent of the aggregate fair market value of all of the assets of the REMIC on the startup day, and the amount of any such reserve shall be promptly and appropriately reduced to the extent the amount held in such reserve is no longer reasonably required for purposes specified in clause (i) or (ii) of this subparagraph.''.

(9) Subparagraph (C) of section 1202(e)(4) is amended by striking ''REMIC, or FASIT'' and inserting ''or REMIC''.

(10) Clause (xi) of section 7701(a)(19)(C) is amended—

(A) by striking ''and any regular interest in a FASIT,'', and

(B) by striking ''or FASIT'' each place it appears.

(11) Subparagraph (A) of section 7701(i)(2) is amended by striking ''or a FASIT''.

(12) The table of parts for subchapter M of chapter 1 is amended by striking the item relating to part V.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on February 14, 2003.

(2) EXCEPTION FOR EXISTING FASITS.—Paragraph (1) shall not apply to any FASIT in existence on the date of the enactment of this Act to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance.

**SEC. 634. EXPANDED DISALLOWANCE OF DEDUCTION FOR INTEREST ON CONVERTIBLE DEBT.**

(a) IN GENERAL.—Paragraph (2) of section 163(l) is amended by inserting ''or equity held by the issuer (or any related party) in any other person'' after ''or a related party''.

(b) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—Section 163(l) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6) and by inserting after paragraph (3) the following new paragraph:

''(4) CAPITALIZATION ALLOWED WITH RESPECT TO EQUITY OF PERSONS OTHER THAN ISSUER AND RELATED PARTIES.—If the disqualified debt instrument of a corporation is payable in equity held by the issuer (or any related party) in any other person (other than a related party), the basis of such equity shall be increased by the amount not allowed as a deduction by reason of paragraph (1) with respect to the instrument.''.

(c) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—Section 163(l), as amended by subsection (b), is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7) and by inserting after paragraph (4) the following new paragraph:

''(5) EXCEPTION FOR CERTAIN INSTRUMENTS ISSUED BY DEALERS IN SECURITIES.—For purposes of this subsection, the term 'disqualified debt instrument' does not include indebtedness issued by a dealer in securities (or a related party) which is payable in, or by reference to, equity (other than equity of the issuer or a related party) held by such dealer in its capacity as a dealer in securities. For purposes of this paragraph, the term 'dealer in securities' has the meaning given such term by section 475.''.

(d) CONFORMING AMENDMENTS.—Paragraph (3) of section 163(l) is amended—

(1) by striking ''or a related party'' in the material preceding subparagraph (A) and inserting ''or any other person'', and

(2) by striking ''or interest'' each place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to debt instruments issued after February 13, 2003.

**SEC. 635. EXPANDED AUTHORITY TO DISALLOW TAX BENEFITS UNDER SECTION 269.**

(a) IN GENERAL.—Subsection (a) of section 269 (relating to acquisitions made to evade or avoid income tax) is amended to read as follows:

''(a) IN GENERAL.—If—

''(1)(A) any person or persons acquire, directly or indirectly, control of a corporation, or

''(B) any corporation acquires, directly or indirectly, property of another corporation and the basis of such property, in the hands of the acquiring corporation, is determined by reference to the basis in the hands of the transferor corporation, and

''(2) the principal purpose for which such acquisition was made is evasion or avoidance of Federal income tax,

then the Secretary may disallow such deduction, credit, or other allowance. For purposes of paragraph (1)(A), control means the ownership of stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of all shares of all classes of stock of the corporation.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock and property acquired after February 13, 2003.

**SEC. 636. MODIFICATION OF INTERACTION BETWEEN SUBPART F AND PASSIVE FOREIGN INVESTMENT COMPANY RULES.**

(a) LIMITATION ON EXCEPTION FROM PFIC RULES FOR UNITED STATES SHAREHOLDERS OF CONTROLLED FOREIGN CORPORATIONS.—Paragraph (2) of section 1297(e) (relating to passive foreign investment company) is amended by adding at the end the following flush sentence:

''Such term shall not include any period if the earning of subpart F income by such corporation during such period would result in only a remote likelihood of an inclusion in gross income under section 951(a)(1)(A)(i).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after February 13, 2003, and to taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

**Subtitle C—Restructuring of Incentives for Alcohol Fuels, Etc.**

**SEC. 641. REDUCED RATES OF TAX ON GASOHOL REPLACED WITH EXCISE TAX CREDIT; REPEAL OF OTHER ALCOHOL-BASED FUEL INCENTIVES; ETC.**

(a) EXCISE TAX CREDIT FOR ALCOHOL FUEL MIXTURES.—

(1) IN GENERAL.—Subsection (f) of section 6427 is amended to read as follows:

''(f) ALCOHOL FUEL MIXTURES.—

''(1) IN GENERAL.—The amount of credit which would (but for section 40(c)) be determined under section 40(a)(1) for any period—

''(A) shall, with respect to taxable events occurring during such period, be treated—

''(i) as a payment of the taxpayer's liability for tax imposed by section 4081, and

''(ii) as received at the time of the taxable event, and

''(B) to the extent such amount of credit exceeds such liability for such period, shall (except as provided in subsection (k)) be paid subject to subsection (i)(3) by the Secretary without interest.

''(2) SPECIAL RULES.—

''(A) ONLY CERTAIN ALCOHOL TAKEN INTO ACCOUNT.—For purposes of paragraph (1), section 40 shall be applied—

''(i) by not taking into account alcohol with a proof of less than 190, and

''(ii) by treating as alcohol the alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

''(B) TREATMENT OF REFINERS.—For purposes of paragraph (1), in the case of a mixture—

''(i) the alcohol in which is described in subparagraph (A)(ii), and

''(ii) which is produced by any person at a refinery prior to any taxable event,

section 40 shall be applied by treating such person as having sold such mixture at the time of its removal from the refinery (and only at such time) to another person for use as a fuel.

''(3) MIXTURES NOT USED AS FUEL.—Rules similar to the rules of subparagraphs (A) and (D) of section 40(d)(3) shall apply for purposes of this subsection.

''(4) TERMINATION.—This section shall apply only to periods to which section 40 applies, determined by substituting in section 40(e)—

''(A) 'December 31, 2010' for 'December 31, 2007', and

''(B) 'January 1, 2011' for 'January 1, 2008'.''

(2) REVISION OF RULES FOR PAYMENT OF CREDIT.—Paragraph (3) of section 6427(i) is amended to read as follows:

''(3) SPECIAL RULE FOR ALCOHOL MIXTURE CREDIT.—

''(A) IN GENERAL.—A claim may be filed under subsection (f)(1)(B) by any person for any period—

''(i) for which $200 or more is payable under such subsection (f)(1)(B), and

''(ii) which is not less than 1 week.

In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).

''(B) PAYMENT OF CLAIM.—Notwithstanding subsection (f)(1)(B), if the Secretary has not paid pursuant to a claim filed under this section within 45 days of the date of the filing of such claim (20 days in the case of an electronic claim), the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

''(C) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''

(b) REPEAL OF OTHER INCENTIVES FOR FUEL MIXTURES.—

(1) Subsection (b) of section 4041 is amended to read as follows:

''(b) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—

''(1) IN GENERAL.—No tax shall be imposed by subsection (a) or (d)(1) on liquids sold for use or used in an off-highway business use.

''(2) TAX WHERE OTHER USE.—If a liquid on which no tax was imposed by reason of paragraph (1) is used otherwise than in an off-highway business use, a tax shall be imposed by paragraph (1)(B), (2)(B), or (3)(A)(ii) of subsection (a) (whichever is appropriate) and by the corresponding provision of subsection (d)(1) (if any).

''(3) OFF-HIGHWAY BUSINESS USE DEFINED.—For purposes of this subsection, the term 'off-highway business use' has the meaning given to such term by section 6421(e)(2); except that such term shall not, for purposes of subsection (a)(1), include use in a diesel-powered train.''

(2) Section 4041(k) is hereby repealed.

(3) Section 4081(c) is hereby repealed.

(4) Section 4091(c) is hereby repealed.

(c) TRANSFERS TO HIGHWAY TRUST FUND.—Paragraph (4) of section 9503(b) is amended by adding ''or'' at the end of subparagraph (B), by striking the comma at the end of subparagraph (C) and inserting a period, and by striking subparagraphs (D), (E), and (F).

(d) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 40 is amended to read as follows:

''(c) COORDINATION WITH EXCISE TAX BENEFITS.—The amount of the credit determined under this section with respect to any alcohol shall, under regulations prescribed by the Secretary, be properly reduced to take into account the benefit provided with respect to such alcohol under section 6427(f).''

(2) Subparagraph (B) of section 40(d)(4) is amended by striking ''under section 4041(k) or 4081(c)'' and inserting ''under section 6427(f)''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to fuel sold or used after September 30, 2004.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxes imposed after September 30, 2003.

**SEC. 642. ALCOHOL FUEL SUBSIDIES BORNE BY GENERAL FUND.**

(a) TRANSFERS TO FUND.—Section 9503(b)(1) is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, the amount of taxes received under section 4081 shall include any amount treated as a payment under section 6427(f)(1)(A) and shall not be reduced by the amount paid under section 6427(f)(1)(B).''.

(b) TRANSFERS FROM FUND.—Subparagraph (A) of section 9503(c)(2) is amended by adding at the end the following new sentence: ''Clauses (i)(III) and (ii) shall not apply to claims under section 6427(f)(1)(B).''

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxes received after September 30, 2004.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to amounts paid after September 30, 2004, and (to the extent related to section 34 of the Internal Revenue Code of 1986) to fuel used after such date.

**Subtitle D—Reduction of Fuel Tax Evasion**

**SEC. 651. EXEMPTION FROM CERTAIN EXCISE TAXES FOR MOBILE MACHINERY.**

(a) EXEMPTION FROM TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.—

(1) IN GENERAL.—Section 4053 (relating to exemptions) is amended by adding at the end the following new paragraph:

''(8) MOBILE MACHINERY.—Any vehicle which consists of a chassis—

''(A) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(B) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(C) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) EXEMPTION FROM TAX ON USE OF CERTAIN VEHICLES.—

(1) IN GENERAL.—Section 4483 (relating to exemptions) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) EXEMPTION FOR MOBILE MACHINERY.—No tax shall be imposed by section 4481 on the use of any vehicle described in section 4053(8).''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the day after the date of the enactment of this Act.

(c) EXEMPTION FROM TAX ON TIRES.—

(1) IN GENERAL.—Section 4072(b)(2) is amended by adding at the end the following flush sentence: ''Such term shall not include tires of a type used exclusively on vehicles described in section 4053(8).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on the day after the date of the enactment of this Act.

(d) REFUND OF FUEL TAXES.—

(1) IN GENERAL.—Section 6421(e)(2) (defining off-highway business use) is amended by adding at the end the following new subparagraph:

''(C) USES IN MOBILE MACHINERY.—

''(i) IN GENERAL.—The term 'off-highway business use' shall include any use in a vehicle which meets the requirements described in clause (ii).

''(ii) REQUIREMENTS FOR MOBILE MACHINERY.—The requirements described in this clause are—

''(I) the design-based test, and

''(II) the use-based test.

''(iii) DESIGN-BASED TEST.—For purposes of clause (ii)(I), the design-based test is met if the vehicle consists of a chassis—

''(I) to which there has been permanently mounted (by welding, bolting, riveting, or other means) machinery or equipment to perform a construction, manufacturing, processing, farming, mining, drilling, timbering, or similar operation if the operation of the machinery or equipment is unrelated to transportation on or off the public highways,

''(II) which has been specially designed to serve only as a mobile carriage and mount (and a power source, where applicable) for the particular machinery or equipment involved, whether or not such machinery or equipment is in operation, and

''(III) which, by reason of such special design, could not, without substantial structural modification, be used as a component of a vehicle designed to perform a function of transporting any load other than that particular machinery or equipment or similar machinery or equipment requiring such a specially designed chassis.

''(iv) USE-BASED TEST.—For purposes of clause (ii)(II), the use-based test is met if the use of the vehicle on public highways was less than 7,500 miles during the taxpayer's taxable year.''.

(2) NO TAX-FREE SALES.—Subsection (b) of section 4082, as amended by section 652, is amended by inserting before the period at the end ''and such term shall not include any use described in section 6421(e)(2)(C)''.

(3) ANNUAL REFUND OF TAX PAID.—Section 6427(i)(2) (relating to exceptions) is amended by adding at the end the following new subparagraph:

''(C) NONAPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any fuel used solely in any off-highway business use described in section 6421(e)(2)(C).''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 652. TAXATION OF AVIATION-GRADE KEROSENE.**

(a) RATE OF TAX.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) in the case of aviation-grade kerosene, 21.8 cents per gallon.''.

(2) COMMERCIAL AVIATION.—Paragraph (2) of section 4081(a) is amended by adding at the end the following new subparagraph:

''(C) TAXES IMPOSED ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation, the rate of tax under subparagraph (A)(iv) shall be 4.3 cents per gallon.''.

(3) CERTAIN REFUELER TRUCKS, TANKERS, AND TANK WAGONS TREATED AS TERMINAL.—Subsection (a) of section 4081 is amended by adding at the end the following new paragraph:

''(3) CERTAIN REFUELER TRUCKS, TANKERS, AND TANK WAGONS TREATED AS TERMINAL.—

''(A) IN GENERAL.—In the case of aviation-grade kerosene which is removed from any terminal directly into the fuel tank of an aircraft (determined without regard to any refueler truck, tanker, or tank wagon which meets the requirements of subparagraph (B)), a refueler truck, tanker, or tank wagon shall be treated as part of such terminal if—

''(i) such truck, tanker, or wagon meets the requirements of subparagraph (B) with respect to an airport, and

''(ii) except in the case of exigent circumstances identified by the Secretary in regulations, no vehicle registered for highway use is loaded with aviation-grade kerosene at such terminal.

''(B) REQUIREMENTS.—A refueler truck, tanker, or tank wagon meets the requirements of this subparagraph with respect to an airport if such truck, tanker, or wagon—

''(i) is loaded with aviation-grade kerosene at such terminal located within such airport and delivers such kerosene only into aircraft at such airport,

''(ii) has storage tanks, hose, and coupling equipment designed and used for the purposes of fueling aircraft,

''(iii) is not registered for highway use, and

''(iv) is operated by—

''(I) the terminal operator of such terminal, or

''(II) a person that makes a daily accounting to such terminal operator of each delivery of fuel from such truck, tanker, or wagon.

''(C) REPORTING.—The Secretary shall require under section 4101(d) reporting by such terminal operator of—

''(i) any information obtained under subparagraph (B)(iv)(II), and

''(ii) any similar information maintained by such terminal operator with respect to deliveries of fuel made by trucks, tankers, or wagons operated by such terminal operator.''.

(4) LIABILITY FOR TAX ON AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION.—Subsection (a) of section 4081 is amended by adding at the end the following new paragraph:

''(4) LIABILITY FOR TAX ON AVIATION-GRADE KEROSENE USED IN COMMERCIAL AVIATION.—For purposes of paragraph (2)(C), the person who uses the fuel for commercial aviation shall pay the tax imposed under such paragraph. For purposes of the preceding sentence, fuel shall be treated as used when such fuel is removed into the fuel tank.''.

(5) NONTAXABLE USES.—

(A) IN GENERAL.—Section 4082 is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

''(e) AVIATION-GRADE KEROSENE.—In the case of aviation-grade kerosene which is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax) and which is removed from any refinery or terminal directly into the fuel tank of an aircraft, the rate of tax under section 4081(a)(2)(A)(iv) shall be zero.''.

(B) CONFORMING AMENDMENTS.—

(i) Subsection (b) of section 4082 is amended by adding at the end the following new flush sentence:

''The term 'nontaxable use' does not include the use of aviation-grade kerosene in an aircraft.''.

(ii) Section 4082(d) is amended by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(6) NONAIRCRAFT USE OF AVIATION-GRADE KEROSENE.—

(A) IN GENERAL.—Subparagraph (B) of section 4041(a)(1) is amended by adding at the end the following new sentence: ''This subparagraph shall not apply to aviation-grade kerosene.''.

(B) CONFORMING AMENDMENT.—The heading for paragraph (1) of section 4041(a) is amended by inserting ''AND KEROSENE'' after ''DIESEL FUEL''.

(b) COMMERCIAL AVIATION.—Section 4083 is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) COMMERCIAL AVIATION.—For purposes of this subpart, the term 'commercial aviation' means any use of an aircraft in a business of transporting persons or property for compensation or hire by air, unless properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282 or by reason of section 4261(h).''.

(c) REFUNDS.—

(1) IN GENERAL.—Paragraph (4) of section 6427(l) is amended to read as follows:

''(4) REFUNDS FOR AVIATION-GRADE KEROSENE.—

''(A) NO REFUND OF CERTAIN TAXES ON FUEL USED IN COMMERCIAL AVIATION.—In the case of aviation-grade kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iv) as does not exceed 4.3 cents per gallon.

''(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—With respect to aviation-grade kerosene, if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount

which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) TIME FOR FILING CLAIMS.—Subparagraph (A) of section 6427(i)(4) is amended—

(A) by striking ''subsection (l)(5)'' both places it appears and inserting ''paragraph (4)(B) or (5) of subsection (l)'', and

(B) by striking ''the preceding sentence'' and inserting ''subsection (l)(5)''.

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 6427(l)(2) is amended to read as follows:

''(B) in the case of aviation-grade kerosene—

''(i) any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax, or

''(ii) any use in commercial aviation (within the meaning of section 4083(b)).''.

(d) REPEAL OF PRIOR TAXATION OF AVIATION FUEL.—

(1) IN GENERAL.—Part III of subchapter A of chapter 32 is amended by striking subpart B and by redesignating subpart C as subpart B.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(c) is amended to read as follows:

''(c) AVIATION-GRADE KEROSENE.—

''(1) IN GENERAL.—There is hereby imposed a tax upon aviation-grade kerosene—

''(A) sold by any person to an owner, lessee, or other operator of an aircraft for use in such aircraft, or

''(B) used by any person in an aircraft unless there was a taxable sale of such fuel under subparagraph (A).

''(2) EXEMPTION FOR PREVIOUSLY TAXED FUEL.—No tax shall be imposed by this subsection on the sale or use of any aviation-grade kerosene if tax was imposed on such liquid under section 4081 and the tax thereon was not credited or refunded.

''(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be the rate of tax specified in section 4081(a)(2)(A)(iv) which is in effect at the time of such sale or use.''.

(B) Section 4041(d)(2) is amended by striking ''section 4091'' and inserting ''section 4081''.

(C) Section 4041 is amended by striking subsection (e).

(D) Section 4041 is amended by striking subsection (i).

(E) Sections 4101(a), 4103, 4221(a), and 6206 are each amended by striking '', 4081, or 4091'' and inserting ''or 4081''.

(F) Section 6416(b)(2) is amended by striking ''4091 or''.

(G) Section 6416(b)(3) is amended by striking ''or 4091'' each place it appears.

(H) Section 6416(d) is amended by striking ''or to the tax imposed by section 4091 in the case of refunds described in section 4091(d)''.

(I) Section 6427(j)(1) is amended by striking '', 4081, and 4091'' and inserting ''and 4081''.

(J)(i) Section 6427(l)(1) is amended to read as follows:

''(1) IN GENERAL.—Except as otherwise provided in this subsection and in subsection (k), if any diesel fuel or kerosene on which tax has been imposed by section 4041 or 4081 is used by any person in a nontaxable use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081, as the case may be, reduced by any payment made to the ultimate vendor under paragraph (4)(B).''.

(ii) Paragraph (5)(B) of section 6427(l) is amended by striking ''Paragraph (1)(A) shall not apply to kerosene'' and inserting ''Paragraph (1) shall not apply to kerosene (other than aviation-grade kerosene)''.

(K) Subparagraph (B) of section 6724(d)(1) is amended by striking clause (xv) and by redesignating the succeeding clauses accordingly.

(L) Paragraph (2) of section 6724(d) is amended by striking subparagraph (W) and by redesignating the succeeding subparagraphs accordingly.

(M) Paragraph (1) of section 9502(b) is amended by adding ''and'' at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

''(C) section 4081 with respect to aviation gasoline and aviation-grade kerosene, and''.

(N) The last sentence of section 9502(b) is amended to read as follows:

''There shall not be taken into account under paragraph (1) so much of the taxes imposed by section 4081 as are determined at the rate specified in section 4081(a)(2)(B).''.

(O) Subsection (b) of section 9508 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(P) Section 9508(c)(2)(A) is amended by striking ''sections 4081 and 4091'' and inserting ''section 4081''.

(Q) The table of subparts for part III of subchapter A of chapter 32 is amended to read as follows:

''Subpart A. Motor and aviation fuels.

''Subpart B. Special provisions applicable to fuels tax.''.

(R) The heading for subpart A of part III of subchapter A of chapter 32 is amended to read as follows:

**''Subpart A—Motor and Aviation Fuels''.**

(S) The heading for subpart B of part III of subchapter A of chapter 32, as redesignated by paragraph (1), is amended to read as follows:

**''Subpart B—Special Provisions Applicable to Fuels Tax''.**

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to aviation-grade kerosene removed, entered, or sold after September 30, 2004.

(f) FLOOR STOCKS TAX.—

(1) IN GENERAL.—There is hereby imposed on aviation-grade kerosene held on October 1, 2004, by any person a tax equal to—

(A) the tax which would have been imposed before such date on such kerosene had the amendments made by this section been in effect at all times before such date, reduced by

(B) the tax imposed before such date under section 4091 of the Internal Revenue Code of 1986, as in effect on the day before the date of the enactment of this Act.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—The person holding the kerosene on October 1, 2004, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD AND TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid at such time and in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall prescribe, including the nonapplication of such tax on de minimis amounts of kerosene.

(3) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this subsection shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

(A) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cents per gallon, and

(B) at the rate under section 4081(a)(2)(A)(iv) to the extent of the remainder.

(4) HELD BY A PERSON.—For purposes of this section, kerosene shall be considered as held by a person if title thereto has passed to such person (whether or not delivery to the person has been made).

(5) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the tax imposed by section 4081 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock tax imposed by paragraph (1) to the same extent as if such tax were imposed by such section.

**SEC. 653. DYE INJECTION EQUIPMENT.**

(a) IN GENERAL.—Section 4082(a)(2) (relating to exemptions for diesel fuel and kerosene) is amended by inserting ''by mechanical injection'' after ''indelibly dyed''.

(b) DYE INJECTOR SECURITY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall issue regulations regarding mechanical dye injection systems described in the amendment made by subsection (a), and such regulations shall include standards for making such systems tamper resistant.

(c) PENALTY FOR TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding after section 6715 the following new section:

**''SEC. 6715A. TAMPERING WITH OR FAILING TO MAINTAIN SECURITY REQUIREMENTS FOR MECHANICAL DYE INJECTION SYSTEMS.**

''(a) IMPOSITION OF PENALTY—

''(1) TAMPERING.—If any person tampers with a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082, such person shall pay a penalty in addition to the tax (if any).

''(2) FAILURE TO MAINTAIN SECURITY REQUIREMENTS.—If any operator of a mechanical dye injection system used to indelibly dye fuel for purposes of section 4082 fails to maintain the security standards for such system as established by the Secretary, then such operator shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) for each violation described in paragraph (1), the greater of—

''(A) $25,000, or

''(B) $10 for each gallon of fuel involved, and

''(2) for each—

''(A) failure to maintain security standards described in paragraph (2), $1,000, and

''(B) failure to correct a violation described in paragraph (2), $1,000 per day for each day after which such violation was discovered or such person should have reasonably known of such violation.

''(c) JOINT AND SEVERAL LIABILITY.—

''(1) IN GENERAL.—If a penalty is imposed under this section on any business entity, each officer, employee, or agent of such entity or other contracting party who willfully participated in any act giving rise to such penalty shall be jointly and severally liable with such entity for such penalty.

''(2) AFFILIATED GROUPS.—If a business entity described in paragraph (1) is part of an affiliated group (as defined in section 1504(a)), the parent corporation of such entity shall be jointly and severally liable with such entity for the penalty imposed under this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item related to section 6715 the following new item:

''Sec. 6715A. Tampering with or failing to maintain security requirements for mechanical dye injection systems.''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect on the 180th day after the date on which the Secretary issues the regulations described in subsection (b).

**SEC. 654. AUTHORITY TO INSPECT ON-SITE RECORDS.**

(a) IN GENERAL.—Section 4083(d)(1)(A) (relating to administrative authority), as previously amended by this Act, is amended by striking ''and'' at the end of clause (i) and by inserting after clause (ii) the following new clause:

''(iii) inspecting any books and records and any shipping papers pertaining to such fuel, and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 655. REGISTRATION OF PIPELINE OR VESSEL OPERATORS REQUIRED FOR EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES.**

(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended—

(1) by inserting ''by pipeline or vessel'' after ''transferred in bulk'', and

(2) by inserting '', the operator of such pipeline or vessel,'' after ''the taxable fuel''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

(c) PUBLICATION OF REGISTERED PERSONS.—Beginning on July 1, 2004, the Secretary of the Treasury (or the Secretary's delegate) shall periodically publish a current list of persons registered under section 4101 of the Internal Revenue Code of 1986 who are required to register under such section.

**SEC. 656. DISPLAY OF REGISTRATION.**

(a) IN GENERAL.—Subsection (a) of section 4101 (relating to registration) is amended—

(1) by striking ''Every'' and inserting the following:

''(1) IN GENERAL.—Every'', and

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

''(2) DISPLAY OF REGISTRATION.—Every operator of a vessel required by the Secretary to register under this section shall display proof of registration through an electronic identification device prescribed by the Secretary on each vessel used by such operator to transport any taxable fuel.''.

(b) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6716 the following new section:

**''SEC. 6717. FAILURE TO DISPLAY TAX REGISTRATION ON VESSELS.**

''(a) FAILURE TO DISPLAY REGISTRATION.—Every operator of a vessel who fails to display proof of registration pursuant to section 4101(a)(2) shall pay a penalty of $500 for each such failure. With respect to any vessel, only one penalty shall be imposed by this section during any calendar month.

''(b) MULTIPLE VIOLATIONS.—In determining the penalty under subsection (a) on any person, subsection (a) shall be applied by increasing the amount in subsection (a) by the product of such amount and the aggregate number of penalties (if any) imposed with respect to prior months by this section on such person (or a related person or any predecessor of such person or related person).

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6716 the following new item:

''Sec. 6717. Failure to display tax registration on vessels.''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on October 1, 2004.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to penalties imposed after September 30, 2004.

**SEC. 657. PENALTIES FOR FAILURE TO REGISTER AND FAILURE TO REPORT.**

(a) INCREASED PENALTY.—Subsection (a) of section 7272 (relating to penalty for failure to register) is amended by inserting ''($10,000 in the case of a failure to register under section 4101)'' after ''$50''.

(b) INCREASED CRIMINAL PENALTY.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended by striking ''$5,000'' and inserting ''$10,000''.

(c) ASSESSABLE PENALTY FOR FAILURE TO REGISTER.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6717 the following new section:

**''SEC. 6718. FAILURE TO REGISTER.**

''(a) FAILURE TO REGISTER.—Every person who is required to register under section 4101 and fails to do so shall pay a penalty in addition to the tax (if any).

''(b) AMOUNT OF PENALTY.—The amount of the penalty under subsection (a) shall be—

''(1) $10,000 for each initial failure to register, and

''(2) $1,000 for each day thereafter such person fails to register.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6717 the following new item:

''Sec. 6718. Failure to register.''.

(d) ASSESSABLE PENALTY FOR FAILURE TO REPORT.—

(1) IN GENERAL.—Part II of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:

**''SEC. 6725. FAILURE TO REPORT INFORMATION UNDER SECTION 4101.**

''(a) IN GENERAL.—In the case of each failure described in subsection (b) by any person with respect to a vessel or facility, such person shall pay a penalty of $10,000 in addition to the tax (if any).

''(b) FAILURES SUBJECT TO PENALTY.—For purposes of subsection (a), the failures described in this subsection are—

''(1) any failure to make a report under section 4101(d) on or before the date prescribed therefor, and

''(2) any failure to include all of the information required to be shown on such report or the inclusion of incorrect information.

''(c) REASONABLE CAUSE EXCEPTION.—No penalty shall be imposed under this section with respect to any failure if it is shown that such failure is due to reasonable cause.''.

(2) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 68 is amended by adding at the end the following new item:

''Sec. 6725. Failure to report information under section 4101.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties imposed after September 30, 2004.

**SEC. 658. COLLECTION FROM CUSTOMS BOND WHERE IMPORTER NOT REGISTERED.**

(a) TAX AT POINT OF ENTRY WHERE IMPORTER NOT REGISTERED.—Subpart B of part III of subchapter A of chapter 32, as redesignated by section 652(d), is amended by adding after section 4103 the following new section:

**''SEC. 4104. COLLECTION FROM CUSTOMS BOND WHERE IMPORTER NOT REGISTERED.**

''(a) IN GENERAL.—The importer of record shall be jointly and severally liable for the tax imposed by section 4081(a)(1)(A)(iii) if, under regulations prescribed by the Secretary, any other person that is not a person who is registered under section 4101 is liable for such tax.

''(b) COLLECTION FROM CUSTOMS BOND.—If any tax for which any importer of record is liable under subsection (a), or for which any importer of record that is not a person registered under section 4101 is otherwise liable, is not paid on or before the last date prescribed for payment, the Secretary may collect such tax from the Customs bond posted with respect to the importation of the taxable fuel to which the tax relates. For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, any action by the Secretary described in the preceding sentence shall be treated as an action to collect the tax from a bond described in section 4101(b)(1) and not as an action to collect from a bond relating to the importation of merchandise.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 32, as redesignated by section 652(d), is amended by adding after the item related to section 4103 the following new item:

''Sec. 4104. Collection from Customs bond where importer not registered.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fuel entered after September 30, 2004.

**SEC. 659. MODIFICATIONS OF TAX ON USE OF CERTAIN VEHICLES.**

(a) PRORATION OF TAX WHERE VEHICLE SOLD.—

(1) IN GENERAL.—Subparagraph (A) of section 4481(c)(2) (relating to where vehicle destroyed or stolen) is amended by striking ''destroyed or stolen'' both places it appears and inserting ''sold, destroyed, or stolen''.

(2) CONFORMING AMENDMENT.—The heading for section 4481(c)(2) is amended by striking ''DESTROYED OR STOLEN'' and inserting ''SOLD, DESTROYED, OR STOLEN''.

(b) REPEAL OF INSTALLMENT PAYMENT.—

(1) Section 6156 (relating to installment payment of tax on use of highway motor vehicles) is repealed.

(2) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

(c) ELECTRONIC FILING.—Section 4481 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) ELECTRONIC FILING.—Any taxpayer who files a return under this section with respect to 25 or more vehicles for any taxable period shall file such return electronically.''.

(d) REPEAL OF REDUCTION IN TAX FOR CERTAIN TRUCKS.—Section 4483 is amended by striking subsection (f).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable periods beginning after the date of the enactment of this Act.

**SEC. 660. MODIFICATION OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.**

(a) IN GENERAL.—

(1) REFUNDS.—Section 6427(l) is amended by adding at the end the following new paragraph:

''(6) REGISTERED VENDORS PERMITTED TO ADMINISTER CERTAIN CLAIMS FOR REFUND OF DIESEL FUEL AND KEROSENE SOLD TO FARMERS.—

''(A) IN GENERAL.—In the case of diesel fuel or kerosene used on a farm for farming purposes (within the meaning of section 6420(c)), paragraph (1) shall not apply to the aggregate amount of such diesel fuel or kerosene if such amount does not exceed 250 gallons (as determined under subsection (i)(5)(A)(iii)).

''(B) PAYMENT TO ULTIMATE VENDOR.—The amount which would (but for subparagraph (A)) have been paid under paragraph (1) with respect to any fuel shall be paid to the ultimate vendor of such fuel, if such vendor—

''(i) is registered under section 4101, and

''(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(2) FILING OF CLAIMS.—Section 6427(i) is amended by inserting at the end the following new paragraph:

''(5) SPECIAL RULE FOR VENDOR REFUNDS WITH RESPECT TO FARMERS.—

''(A) IN GENERAL.—A claim may be filed under subsection (l)(6) by any person with respect to fuel sold by such person for any period—

''(i) for which $200 or more ($100 or more in the case of kerosene) is payable under subsection (l)(6),

''(ii) which is not less than 1 week, and

''(iii) which is for not more than 250 gallons for each farmer for which there is a claim.

Notwithstanding subsection (l)(1), paragraph (3)(B) shall apply to claims filed under the preceding sentence.

''(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 6427(l)(5)(A) is amended to read as follows:

''(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.''.

(B) The heading for section 6427(l)(5) is amended by striking ''FARMERS AND''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuels sold for nontaxable use after the date of the enactment of this Act.

**SEC. 661. DEDICATION OF REVENUES FROM CERTAIN PENALTIES TO THE HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Subsection (b) of section 9503 (relating to transfer to Highway Trust Fund of amounts equivalent to certain taxes) is amended by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following new paragraph:

''(5) CERTAIN PENALTIES.—There are hereby appropriated to the Highway Trust Fund amounts equivalent to the penalties paid under sections 6715, 6715A, 6717, 6718, 6725, 7232, and 7272 (but only with regard to penalties under such section related to failure to register under section 4101).''.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 9503 is amended by inserting ''AND PENALTIES'' after ''TAXES''.

(2) The heading of paragraph (1) of section 9503(b) is amended by striking ''IN GENERAL'' and inserting ''CERTAIN TAXES''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to penalties assessed after October 1, 2004.

**SEC. 662. TAXABLE FUEL REFUNDS FOR CERTAIN ULTIMATE VENDORS.**

(a) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to abatements, credits, and refunds) is amended to read as follows:

''(4) REGISTERED ULTIMATE VENDOR TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

''(A) IN GENERAL.—For purposes of this subsection, if an ultimate vendor purchases any gasoline on which tax imposed by section 4081 has been paid and sells such gasoline to an ultimate purchaser described in subparagraph (C) or (D) of subsection (b)(2) (and such gasoline is for a use described in such subparagraph), such ultimate vendor shall be treated as the person (and the only person) who paid such tax, but only if such ultimate vendor is registered under section 4101. For purposes of this subparagraph, if the sale of gasoline is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.

''(B) TIMING OF CLAIMS.—The procedure and timing of any claim under subparagraph (A) shall be the same as for claims under section 6427(i)(4), except that the rules of section 6427(i)(3)(B) regarding electronic claims shall not apply unless the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor covered by such claim are certified and entitled to a refund under subparagraph (C) or (D) of subsection (b)(2).''.

(b) CREDIT CARD PURCHASES OF DIESEL FUEL OR KEROSENE BY STATE AND LOCAL GOVERNMENTS.—Section 6427(l)(5)(C) (relating to nontaxable uses of diesel fuel, kerosene, and aviation fuel) is amended by adding at the end the following new flush sentence: ''For purposes of this subparagraph, if the sale of diesel fuel or kerosene is made by means of a credit card, the person extending the credit to the ultimate purchaser shall be deemed to be the ultimate vendor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2004.

**SEC. 663. TWO-PARTY EXCHANGES.**

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 32, as amended by this Act, is amended by adding after section 4104 the following new section:

**''SEC. 4105. TWO-PARTY EXCHANGES.**

''(a) IN GENERAL.—In a two-party exchange, the delivering person shall not be liable for the tax imposed under section 4081(a)(1)(A)(ii).

''(b) TWO-PARTY EXCHANGE.—The term 'two-party exchange' means a transaction, other than a sale, in which taxable fuel is transferred from a delivering person registered under section 4101 as a taxable fuel registrant fuel to a receiving person who is so registered where all of the following occur:

''(1) The transaction includes a transfer from the delivering person, who holds the inventory position for taxable fuel in the terminal as reflected in the records of the terminal operator.

''(2) The exchange transaction occurs before or contemporaneous with completion of removal across the rack from the terminal by the receiving person.

''(3) The terminal operator in its books and records treats the receiving person as the person that removes the taxable fuel across the terminal rack for purposes of reporting the transaction to the Secretary.

''(4) The transaction is the subject of a written contract.''.

(b) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 32, as amended by this Act, is amended by adding after the item relating to section 4104 the following new item:

''Sec. 4105. Two-party exchanges.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 664. SIMPLIFICATION OF TAX ON TIRES.**

(a) IN GENERAL.—Subsection (a) of section 4071 is amended to read as follows:

''(a) IMPOSITION AND RATE OF TAX.—There is hereby imposed on taxable tires sold by the manufacturer, producer, or importer thereof a tax at the rate of 9.4 cents (4.7 cents in the case of a biasply tire) for each 10 pounds so much of the maximum rated load capacity thereof as exceeds 3,500 pounds.''

(b) TAXABLE TIRE.—Section 4072 is amended by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and by inserting before subsection (b) (as so redesignated) the following new subsection:

''(a) TAXABLE TIRE.—For purposes of this chapter, the term 'taxable tire' means any tire of the type used on highway vehicles if wholly or in part made of rubber and if marked pursuant to Federal regulations for highway use.''

(c) EXEMPTION FOR TIRES SOLD TO DEPARTMENT OF DEFENSE.—Section 4073 is amended to read as follows:

**''SEC. 4073. EXEMPTIONS.**

''The tax imposed by section 4071 shall not apply to tires sold for the exclusive use of the Department of Defense or the Coast Guard.''

(d) CONFORMING AMENDMENTS.—

(1) Section 4071 is amended by striking subsection (c) and by moving subsection (e) after subsection (b) and redesignating subsection (e) as subsection (c).

(2) The item relating to section 4073 in the table of sections for part II of subchapter A of chapter 32 is amended to read as follows:

''Sec. 4073. Exemptions.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales in calendar years beginning more than 30 days after the date of the enactment of this Act.

**Subtitle E—Prevention of Tax Avoidance Through Treaty Shopping**

**SEC. 671. DENIAL OF TREATY BENEFITS FOR CERTAIN DEDUCTIBLE PAYMENTS.**

(a) IN GENERAL.—Section 894 (relating to income affected by treaty) is amended by adding at the end the following new subsection:

''(d) DENIAL OF TREATY BENEFITS FOR CERTAIN DEDUCTIBLE PAYMENTS.—

''(1) IN GENERAL.—A foreign entity shall not be entitled under any income tax treaty of the United States with a foreign country to any reduced rate of any withholding tax imposed by this title on any deductible foreign payment unless such entity is predominantly owned by individuals who are residents of such foreign country.

''(2) DEDUCTIBLE FOREIGN PAYMENT.—For purposes of paragraph (1), the term 'deductible foreign payment' means any payment—

''(A) which is made by a domestic entity directly or indirectly to a related person which is a foreign entity, and

''(B) which is allowable as a deduction under this chapter.

''(3) DOMESTIC AND FOREIGN ENTITIES; RELATED PERSON.—For purposes of this subsection—

''(A) DOMESTIC ENTITY.—The term 'domestic entity' means any domestic corporation or domestic partnership.

''(B) FOREIGN ENTITY.—The term 'foreign entity' means any foreign corporation or foreign partnership.

''(C) RELATED PERSON.—The term 'related person' has the meaning given such term by

section 954(d)(3) (determined by substituting 'domestic entity' for 'controlled foreign corporation' each place it appears).

''(4) PREDOMINANT OWNERSHIP.—For purposes of this subsection—

''(A) IN GENERAL.—An entity is predominantly owned by individuals who are residents of a foreign country if—

''(i) in the case of a corporation, more than 50 percent (by value) of the stock of such corporation is owned (within the meaning of section 883(c)(4)) by individuals who are residents of such foreign country, or

''(ii) in the case of a partnership, more than 50 percent (by value) of the beneficial interests in such partnership are so owned.

''(B) PUBLICLY TRADED CORPORATIONS.—A foreign corporation also shall be treated as predominantly owned by individuals who are residents of a foreign country if—

''(i)(I) the stock of such corporation is primarily and regularly traded on an established securities market in such foreign country, and

''(II) such corporation has activities within such foreign country which are substantial in relation to the total activities of such corporation and its related persons, or

''(ii) such corporation is wholly owned (directly or indirectly) by another foreign corporation which is described in clause (i).

''(C) SPECIAL RULE.—

''(i) IN GENERAL.—A foreign corporation shall be treated as meeting the requirements of subparagraph (A) if—

''(I) such requirements would be met if '30 percent' were substituted for '50 percent' in subparagraph (A)(i),

''(II) the treaty country is a member of a multinational economic association such as the European Union, and

''(III) at least 50 percent of the value of the stock of the corporation is owned (within the meaning of section 883(c)(4)) by individuals who are residents of the treaty country or other qualified foreign countries.

''(ii) QUALIFIED FOREIGN COUNTRY.—For purposes of this subparagraph, the term 'qualified foreign country' means any foreign country if—

''(I) such foreign country is a member of the multinational economic association of which the treaty country is a member, and

''(II) such foreign country has a tax treaty with the United States providing a withholding tax rate reduction which is not less than the withholding tax rate reduction applicable (without regard to this subsection) to the payment received by such foreign corporation.

''(5) EXCEPTION FOR CORPORATIONS WITH SUBSTANTIAL BUSINESS ACTIVITIES IN TREATY COUNTRY.—Paragraph (1) shall not apply to a payment received by a foreign corporation if such corporation has substantial business activities in the treaty country and if such corporation establishes to the satisfaction of the Secretary that the payment is subject to an effective rate of income tax imposed by such country greater than 90 percent of the maximum rate of tax specified in section 11.

''(6) EXCEPTION FOR PAYMENTS RECEIVED BY CONTROLLED FOREIGN CORPORATION.—Paragraph (1) shall not apply to any deductible foreign payment made by a corporation if the recipient of the payment is a controlled foreign corporation and the payor is a United States shareholder (as defined in section 951(b)) of such corporation.

''(7) CONDUIT PAYMENTS.—Under regulations prescribed by the Secretary, paragraph (1) shall not apply to a payment received by a foreign entity referred to in paragraph (1) if—

''(A) within a reasonable period after such entity receives such payment, such entity makes a comparable payment directly or indirectly to another related person,

''(B) such related person is a resident of a foreign country with which the United States has an income tax treaty,

''(C) such related person is predominantly owned by individuals who are residents of such country, and

''(D) the withholding tax rate applicable under such treaty is equal to or greater than the withholding tax rate applicable (without regard to this paragraph) to the payment received by such foreign entity.

A similar rule shall apply where the payment is includible in the gross income of a related person by reason of a foreign law comparable to subpart F of part III of subchapter N.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

**SEC. 672. TRANSFER PRICE REDUCED BY DEFLECTED TAX HAVEN INCOME.**

(a) IN GENERAL.—Section 482 (relating to allocation of income and deductions among taxpayers) is amended by inserting ''(a) IN GENERAL.—'' before ''In the case of two or more'' and by adding at the end the following new subsection:

''(b) SPECIAL RULE FOR RELATED-PARTY INBOUND AND OUTBOUND TRANSACTIONS.—

''(1) IN GENERAL.—In the case of property or services to which this subsection applies, the transfer price under this section for such property or service shall be the transfer price determined without regard to this subsection—

''(A) in the case of a related-party inbound transaction, reduced by the deflected tax haven income with respect to such property or service, or

''(B) in the case of a related-party outbound transaction, increased by the deflected tax haven income with respect to such property or service.

''(2) PROPERTY OR SERVICES TO WHICH SUBSECTION APPLIES.—

''(A) IN GENERAL.—This subsection applies to any property or services if there is a related-party inbound or outbound transaction with respect to such property or services.

''(B) RELATED-PARTY INBOUND TRANSACTION.—A related-party inbound transaction is any transaction where—

''(i) property is acquired directly or indirectly by a foreign-controlled domestic corporation from a foreign related person, or

''(ii) the services are performed directly or indirectly for a foreign-controlled domestic corporation by a foreign related person.

''(C) RELATED-PARTY OUTBOUND TRANSACTION.—A related-party outbound transaction is any transaction where—

''(i) property is sold directly or indirectly by a foreign-controlled domestic corporation to a foreign related person, or

''(ii) services are performed directly or indirectly by a foreign-controlled domestic corporation for a foreign related person.

''(3) DEFLECTED TAX HAVEN INCOME.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'deflected tax haven income' means income (whether in the form of profits, commissions, fees, or otherwise) derived by a foreign related person in connection with any transaction related to property or services to which this subsection applies if such income would be treated as foreign base company sales income (as defined in section 954(d)) or foreign base company services income (as defined in section 954(e)) were such foreign related person treated as a controlled foreign corporation.

''(B) EXCEPTION FOR INCOME SUBJECT TO FOREIGN TAXES.—

''(i) HIGH TAXES.—Such term shall not include any item of income with respect to which the requirements of section 954(b)(4) are met.

''(ii) OTHER TAXES.—If the taxpayer establishes to the satisfaction of the Secretary that an item of income was subject to an income tax imposed by a foreign country and the effective rate of such tax (and such effective rate was not greater than 90 percent of the maximum rate of tax specified in section 11), the term 'deflected tax haven income' shall not include the same proportion of such income as such effective rate of tax bears to 90 percent.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) FOREIGN RELATED PERSON.—The term 'foreign related person' means any foreign person who is related (within the meaning of subsection (a)) to the foreign-controlled domestic corporation.

''(B) FOREIGN-CONTROLLED DOMESTIC CORPORATION.—The term 'foreign-controlled domestic corporation' means any domestic corporation which is 25-percent foreign-owned (as defined in section 6038A(c)).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property acquired, and services performed, after the date of the enactment of this Act.

**Subtitle F—Additions to List of Taxable Vaccines**

**SEC. 681. ADDITION OF VACCINES AGAINST HEPATITIS A TO LIST OF TAXABLE VACCINES.**

(a) IN GENERAL.—Paragraph (1) of section 4132(a) (defining taxable vaccine) is amended by redesignating subparagraphs (I), (J), (K), and (L) as subparagraphs (J), (K), (L), and (M), respectively, and by inserting after subparagraph (H) the following new subparagraph:

''(I) Any vaccine against hepatitis A.''

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by subsection (a) shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

**SEC. 682. ADDITION OF VACCINES AGAINST INFLUENZA TO LIST OF TAXABLE VACCINES.**

(a) IN GENERAL.—Section 4132(a)(1) (defining taxable vaccine), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(N) Any trivalent vaccine against influenza.''.

(b) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendment made by this section shall apply to sales and uses on or after the later of—

(A) the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act, or

(B) the date on which the Secretary of Health and Human Services lists any vaccine against influenza for purposes of compensation for any vaccine-related injury or death through the Vaccine Injury Compensation Trust Fund.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

**Subtitle G—Other Provisions**

**SEC. 691. IRS USER FEES MADE PERMANENT.**

(a) IN GENERAL.—Section 7528 (relating to Internal Revenue Service user fees) is amended by striking subsection (c).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to requests after the date of the enactment of this Act.

**SEC. 692. COBRA FEES.**

(a) USE OF MERCHANDISE PROCESSING FEE.—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(1) in paragraph (1), by aligning subparagraph (B) with subparagraph (A); and

(2) in paragraph (2), by striking ''commercial operations'' and all that follows through ''processing.'' and inserting ''customs revenue functions as defined in section 415 of the Homeland Security Act of 2002 (other than functions performed by the Office of International Affairs referred to in section 415(8) of that Act), and for automation (including the Automation Commercial Environment computer system), and for no other purpose. To the extent that funds in the Customs User Fee Account are insufficient to pay the costs of such customs revenue functions, customs duties in an amount equal to the amount of such insufficiency shall be available, to the extent provided for in appropriations Acts, to pay the costs of such customs revenue functions in the amount of such insufficiency, and shall be available for no other purpose. The provisions of the first and second sentences of this paragraph specifying the purposes for which amounts in the Customs User Fee Account may be made available shall not be superseded except by a provision of law which specifically modifies or supersedes such provisions.''.

(b) REIMBURSEMENT OF APPROPRIATIONS FROM COBRA FEES.—Section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)) is amended by adding at the end the following:

''(E) Nothing in this paragraph shall be construed to preclude the use of appropriated funds, from sources other than the fees collected under subsection (a), to pay the costs set forth in clauses (i), (ii), and (iii) of subparagraph (A).''.

(c) SENSE OF CONGRESS; EFFECTIVE PERIOD FOR COLLECTING FEES; STANDARD FOR SETTING FEES.—

(1) SENSE OF CONGRESS.—The Congress finds that—

(A) the fees set forth in paragraphs (1) through (8) of subsection (a) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 have been reasonably related to the costs of providing customs services in connection with the activities or items for which the fees have been charged under such paragraphs; and

(B) the fees collected under such paragraphs have not exceeded, in the aggregate, the amounts paid for the costs described in subsection (f)(3)(A) incurred in providing customs services in connection with the activities or items for which the fees were charged under such paragraphs.

(2) EFFECTIVE PERIOD; STANDARD FOR SETTING FEES.—Section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking paragraph (3).

(d) CLERICAL AMENDMENTS.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) in subsection (a)(5)(B), by striking ''$1.75'' and inserting ''$1.75.'';

(2) in subsection (b)—

(A) in paragraph (1)(A), by aligning clause (iii) with clause (ii);

(B) in paragraph (7), by striking ''paragraphs'' and inserting ''paragraph''; and

(C) in paragraph (9), by aligning subparagraph (B) with subparagraph (A); and

(3) in subsection (e)(2), by aligning subparagraph (B) with subparagraph (A).

(e) STUDY OF ALL FEES COLLECTED BY DEPARTMENT OF HOMELAND SECURITY.—The Secretary of the Treasury shall conduct a study of all the fees collected by the Department of Homeland Security, and shall submit to the Congress, not later than September 30, 2005, a report containing the recommendations of the Secretary on—

(1) what fees should be eliminated;

(2) what the rate of fees retained should be; and

(3) any other recommendations with respect to the fees that the Secretary considers appropriate.

Amend subsection (c) of section 641 of the bill as amended above to read as follows:

(c) TRANSFERS TO HIGHWAY TRUST FUND.—

(1) Paragraph (4) of section 9503(b) is amended by adding ''or'' at the end of subparagraph (C), by striking the comma at the end of subparagraph (D) and inserting a period, and by striking subparagraphs (E) and (F).

(2) Paragraph (4) of section 9503(b), as amended by paragraph (1), is further amended by adding ''or'' at the end of subparagraph (B), by striking the comma at the end of subparagraph (C) and inserting a period, and by striking subparagraph (D).

Amend paragraph (2) of section 641(e) of the bill as amended above to read as follows:

(2) SUBSECTION (c).—

(A) The amendments made by subsection (c)(1) shall apply to taxes imposed after September 30, 2003.

(B) The amendments made by subsection (c)(2) shall apply to taxes imposed after September 30, 2006.

Mr. RANGEL (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) is recognized for 5 minutes in support of his motion.

Mr. RANGEL. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. COOPER).

Mr. COOPER. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Many Members here today are voting for this motion to recommit for a very important reason, because if we care about State tax fairness, if one is from one of those seven States like Florida or Texas or Tennessee or Washington or Nevada or South Dakota that rely primarily on a State sales tax, the best way to give one's citizens relief is through their Rangel motion to recommit because tax relief there is permanent, not temporary. All that is being offered in the majority bill here is 2 years of relief.

What are they going to tell their people back home when they have given them a tax break for 2 years, not the permanent relief that my friend from New York is offering?

So it is very important for folks who are sincere about this issue, who really care about tax relief for their citizens, to vote for the motion to recommit. If one is from one of these seven States and do not vote for the motion to recommit, they are not truly serving their people.

□ 1345

Mr. RANGEL. Mr. Speaker, this motion to recommit, we have a restricted amount of time, because the majority denied us the opportunity to have a substitute. If the underlying bill is so good, why not allow in the democratic process, with a small ''d,'' the opportunity for someone to say, I have a better idea; and since they are the majority, why do they not believe that they have enough votes and must have confidence in what they are doing, at least to get the majority to vote for it?

So my motion to recommit, what we would have done if we had had the chance, is that we do not provide tax incentives for manufacturers and other people to move their jobs overseas. What we do is grab the essence of the agreement that we had with the gentleman from Illinois (Mr. MANZULLO), with the gentleman from Illinois (Mr. CRANE) when we put together a bipartisan bill to create jobs, not for those overseas, but for those in the United States of America.

We also do not include all of the addition of tax incentives for things that are not related to resolving the problem before us. We have what is indeed called a jobs bill, and that is what we had hoped that we would be able to do.

As was pointed out by the gentleman from Tennessee (Mr. COOPER), we believe that States who do not have income taxes and rely on sales taxes should get relief, but why the majority would restrict this relief to 2 years is far beyond my expectation; and that is why we thought we had a better idea to make it permanent.

When kids look under the Christmas tree, there is going to be a gift for them too. They will be inheriting one of the biggest debts that we have ever seen, because this bill that started out with a plus of $50 billion, they have now provided a $34 billion deficit. And indeed, if you take all of the phasing-outs and take the sunsettings out of it, it is estimated that it would add $300 million to the deficit.

One thing that we do not do, and that is to provide safe harbor for churches, allowing them entry into partisan politics, because we were so pleased to see that they knew that they really had overburdened the purposes of this bill and finally excluded that.

It would seem to me that those people who really are interested in the jobs of the United States will have an opportunity to vote on this motion to recommit, and those people who believe that there is a gift for them under the tree and that that is the only reason that they are voting for a bill that most people who get a chance to read this bill, since it was not made available today to most of the members of the subcommittees in this House, would realize that this bill is bad for American job seekers, it is bad for America, and it is bad for our economy.

So I do hope that perhaps sometime in the future when Republicans think that they have a great idea, that they

also should remember in a democracy and in this Congress they should not just attempt continuously to stifle the opposition but to have enough confidence in what they are doing to give us a chance to say, we want a substitute, we want to be heard, we want our bill on the floor for people to evaluate and to be able to vote for.

But each time we do it, they said that if we did not take their tobacco, it was out of the jurisdiction. We have been hampered in the committee, we have been hampered by the Committee on Rules, and we are hampered now by the rules of the House. I think we should stop talking about what happened in the days of Rostenkowski and think what is happening to the American people today and what can we do in a bipartisan way, working together to resolve problems that we have.

It should be embarrassing to everyone in this House that when a foreign group like the World Trade Organization provides sanctions against United States exporters that we believe that we come up with a Republican solution. It should be an American solution, congressional solution, and not an attempt of a partisan solution for partisan purposes.

Mr. THOMAS. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from California (Mr. THOMAS) is recognized for 5 minutes.

Mr. THOMAS. Mr. Speaker, the minority leader, in discussing the minority position, talked about the vision of the gentleman from New York, the path that he wished to take. We were just handed 3 minutes ago this particular motion to recommit, so if we are looking for a contest of freshness, the gentleman's vision is clearly the most recently pasted-together piece of legislation to be presented us. In fact, the paste is still kind of damp.

So if, in fact, the vision is the path that the gentleman from New York wishes to follow, we would hope it is a shining path. But when you look at this legislation, what you discover, notwithstanding the half an hour of berating on the floor of the House the tobacco proposal, guess what is recently pasted to his vision? You guessed it, the tobacco proposal. Apparently he has had a change of vision.

For more than 20 years, when they were the majority, they did not give a dang about people deducting sales taxes, because they were the ones who removed it from the code. But, guess what? That vision had a bolt of lightning 20 minutes ago, and now we have permanent sales tax removal.

Had Republicans decided to go with permanent sales tax removal, I am quite sure they would have come up with a deduction for your dog. Why? Because no matter what we do, they are going to be better. But better is not copying. Better is starting out with an idea, carrying it through, and presenting it to you.

What their motion to recommit will do is to say if you are a company in the U.S. and you deign to try to make a profit by selling overseas, you will be punished. It says that in our desire to raise revenue, we will examine what you have been doing. Not tomorrow, not the day after tomorrow. We will retroactively go back to what you have been doing for 20 or 30 or 40 years and now say not only can you not do it; you are going to have to pay for doing it, notwithstanding the fact it was legal. Retroactively.

And then bragging about the fact that they removed the international tax provisions, what they are really bragging about is since U.S.-based companies are double taxed today, without these changes, they will continue to be double taxed.

Why are companies going overseas? Because they are double taxed. They want to keep double taxation, and they want to complain about companies going overseas.

It is pretty simple: support H.R. 4520. Companies will stay at home, and that creates jobs.

So I appreciate the gentleman from New York's vision. I just hope the paste lasts through the vote, because, frankly, that is about what it is worth.

PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. RANGEL. Mr. Speaker, how does one find out whether or not the former speaker did not tell the truth as it relates to what is in the motion to recommit? How would one be able to find out, when he said that the tobacco proposals are in the motion to recommit, that he did not tell the truth? What procedure does one follow in order to adjust the record and to make certain that truth will prevail over this partisan effort?

The SPEAKER pro tempore. In response to the gentleman's inquiry, the Chair is not able to place remarks in debate in historical context. That is a matter for the Members to debate.

Mr. RANGEL. Mr. Speaker, I am sorry, I did not hear the Speaker.

The SPEAKER pro tempore. The Chair is unable to put the matter into historical context. The gentleman has raised a matter for Members to address by debate.

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.

Mr. RANGEL. 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.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, this 15-minute vote on the motion to recommit will be followed by a 15-minute vote, if ordered, on the passage of H.R. 4520, and then a 5-minute vote, if ordered, on the approval of the Journal.

The vote was taken by electronic device, and there were—yeas 193, nays 235, not voting 5, as follows:

[Roll No. 258]

YEAS—193

Abercrombie
Ackerman
Alexander
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Clay
Clyburn
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
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
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
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)
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
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
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—235

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (GA)
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
Chandler
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
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
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 (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
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
Pomeroy
Porter
Portman
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
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)

NOT VOTING—5

Conyers
DeMint
Hastings (FL)
Kilpatrick
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1418

Mr. TIAHRT, Mr. WALSH and Mr. OSE changed their vote from ''yea'' to ''nay.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

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

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 15-minute vote followed by a 5-minute vote on approval of the Journal.

The vote was taken by electronic device, and there were—ayes 251, noes 178, not voting 5, as follows:

[Roll No. 259]

AYES—251

Abercrombie
Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Barton (TX)
Beauprez
Bereuter
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Carson (OK)
Carter
Chabot
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Cooper
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (TN)
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
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
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Hobson
Hoekstra
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Majette
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Murphy
Musgrave
Myrick
Nethercutt
Neugebauer
Ney
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Ruppersberger
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tanner
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Vitter
Walden (OR)
Walsh
Wamp
Watt
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wu
Young (AK)

NOES—178

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bartlett (MD)
Bass
Becerra
Bell
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Clay
Costello
Crowley
Cummings
Davis (CA)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Doyle
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Flake
Frank (MA)
Gephardt
Gonzalez
Green (TX)
Grijalva
Gutierrez
Harman
Hefley
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Kirk
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Maloney
Manzullo
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller, George
Mollohan
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Platts
Pomeroy
Rahall
Rangel
Reyes
Rodriguez
Rohrabacher
Rothman
Roybal-Allard
Royce
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Sensenbrenner
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Solis
Stark
Strickland
Stupak
Tancredo
Tauscher
Taylor (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Waters
Watson
Waxman
Weiner
Wexler
Wilson (NM)
Wolf
Woolsey
Wynn
Young (FL)

NOT VOTING—5

Conyers
DeMint
Hastings (FL)
Kilpatrick
Quinn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1437

Ms. MAJETTE changed her vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

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

RECORDED VOTE

Mr. ROGERS of Michigan. 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 342, noes 67, answered ''present'' 1, not voting 23, as follows:

[Roll No. 260]

AYES—342

| | | |
|---|---|---|
| Ackerman | Davis (CA) | Israel |
| Aderholt | Davis (FL) | Issa |
| Akin | Davis (IL) | Istook |
| Alexander | Davis (TN) | Jackson (IL) |
| Allen | Davis, Jo Ann | Jenkins |
| Andrews | Davis, Tom | John |
| Baca | Deal (GA) | Johnson (CT) |
| Bachus | DeGette | Johnson (IL) |
| Baker | Delahunt | Johnson, Sam |
| Ballenger | DeLauro | Jones (NC) |
| Barrett (SC) | Deutsch | Kanjorski |
| Bartlett (MD) | Diaz-Balart, L. | Kaptur |
| Barton (TX) | Diaz-Balart, M. | Keller |
| Bass | Dingell | Kelly |
| Beauprez | Dooley (CA) | Kildee |
| Becerra | Doolittle | Kind |
| Bell | Doyle | King (IA) |
| Bereuter | Dreier | King (NY) |
| Berkley | Duncan | Kingston |
| Berman | Dunn | Kirk |
| Berry | Edwards | Kleczka |
| Biggert | Ehlers | Kline |
| Bilirakis | Emanuel | Knollenberg |
| Bishop (GA) | Engel | Kolbe |
| Bishop (NY) | Eshoo | LaHood |
| Bishop (UT) | Etheridge | Lampson |
| Blackburn | Everett | Langevin |
| Blumenauer | Farr | Lantos |
| Blunt | Fattah | Larson (CT) |
| Boehlert | Feeney | Latham |
| Boehner | Ferguson | LaTourette |
| Bonilla | Flake | Leach |
| Bonner | Foley | Lee |
| Bono | Forbes | Lewis (KY) |
| Boozman | Frank (MA) | Linder |
| Boswell | Franks (AZ) | Lofgren |
| Boyd | Frelinghuysen | Lowey |
| Bradley (NH) | Frost | Lucas (KY) |
| Brady (TX) | Gallegly | Lucas (OK) |
| Brown (OH) | Garrett (NJ) | Lynch |
| Brown (SC) | Gerlach | Maloney |
| Brown, Corrine | Gibbons | Markey |
| Brown-Waite, Ginny | Gilchrest | Marshall |
| Burgess | Gillmor | Matheson |
| Burns | Gingrey | Matsui |
| Burr | Gonzalez | McCarthy (MO) |
| Burton (IN) | Goode | McCarthy (NY) |
| Buyer | Goodlatte | McCollum |
| Calvert | Gordon | McCotter |
| Camp | Goss | McCrery |
| Cannon | Granger | McHugh |
| Cantor | Green (WI) | McIntyre |
| Capito | Greenwood | McKeon |
| Capps | Grijalva | Meehan |
| Cardin | Gutierrez | Meek (FL) |
| Cardoza | Hall | Meeks (NY) |
| Carson (IN) | Harman | Mica |
| Carson (OK) | Hastings (WA) | Michaud |
| Carter | Hayes | Millender-McDonald |
| Case | Hayworth | Miller (FL) |
| Castle | Hensarling | Miller (MI) |
| Chabot | Herger | Miller (NC) |
| Chandler | Herseth | Miller, Gary |
| Chocola | Hill | Mollohan |
| Clay | Hinojosa | Moore |
| Clyburn | Hobson | Moran (VA) |
| Coble | Hoeffel | Murphy |
| Cole | Hoekstra | Murtha |
| Collins | Holden | Musgrave |
| Cox | Holt | Myrick |
| Cramer | Honda | Nadler |
| Crenshaw | Hooley (OR) | Napolitano |
| Crowley | Hostettler | Neal (MA) |
| Cubin | Houghton | Neugebauer |
| Culberson | Hoyer | Ney |
| Cummings | Hulshof | Northup |
| Cunningham | Hunter | Norwood |
| Davis (AL) | Hyde | Nunes |
| Davis (CA) | Inslee | Nussle |
| Davis (FL) | Israel | Obey |
| Davis (IL) | Issa | Ortiz |
| Davis (TN) | Istook | Osborne |
| Davis, Jo Ann | Jackson (IL) | Ose |
| Davis, Tom | Jenkins | Owens |
| Deal (GA) | John | Oxley |
| DeGette | Johnson (CT) | Pallone |
| Delahunt | Johnson (IL) | Pascrell |
| DeLauro | Johnson, Sam | Paul |
| Deutsch | Jones (NC) | Payne |
| Diaz-Balart, L. | Kanjorski | Pearce |
| Diaz-Balart, M. | Kaptur | Pelosi |
| Dingell | Keller | Pence |
| Dooley (CA) | Kelly | Peterson (PA) |
| Doolittle | Kildee | Petri |
| Doyle | Kind | Pickering |
| Dreier | King (IA) | Pitts |
| Duncan | King (NY) | Platts |
| Dunn | Kingston | Pomeroy |
| Edwards | Kirk | Portman |
| Ehlers | Kleczka | Price (NC) |
| Emanuel | Kline | Pryce (OH) |
| Engel | Knollenberg | Putnam |
| Eshoo | Kolbe | Radanovich |
| Etheridge | LaHood | Rahall |
| Everett | Lampson | Rangel |
| Farr | Langevin | Regula |
| Fattah | Lantos | Rehberg |
| Feeney | Larson (CT) | Renzi |
| Ferguson | Latham | Reyes |
| Flake | LaTourette | Reynolds |
| Foley | Leach | Rodriguez |
| Forbes | Lee | Rogers (AL) |
| Frank (MA) | Lewis (KY) | Rogers (KY) |
| Franks (AZ) | Linder | Rogers (MI) |
| Frelinghuysen | Lofgren | Rohrabacher |
| Frost | Lowey | Ros-Lehtinen |
| Gallegly | Lucas (KY) | Rothman |
| Garrett (NJ) | Lucas (OK) | Roybal-Allard |
| Gerlach | Lynch | Royce |
| Gibbons | Maloney | Ruppersberger |
| Gilchrest | Markey | Rush |
| Gillmor | Marshall | Ryan (OH) |
| Gingrey | Matheson | Ryan (WI) |
| Gonzalez | Matsui | Ryun (KS) |
| Goode | McCarthy (MO) | Sánchez, Linda T. |
| Goodlatte | McCarthy (NY) | Sanders |
| Gordon | McCollum | Schiff |
| Goss | McCotter | Schrock |
| Granger | McCrery | Scott (GA) |
| Green (WI) | McHugh | Scott (VA) |
| Greenwood | McIntyre | Sensenbrenner |
| Grijalva | McKeon | Serrano |
| Gutierrez | Meehan | Sessions |
| Hall | Meek (FL) | Shadegg |
| Harman | Meeks (NY) | Shaw |
| Hastings (WA) | Mica | Shays |
| Hayes | Michaud | Sherman |
| Hayworth | Millender-McDonald | Sherwood |
| Hensarling | Miller (FL) | Shimkus |
| Herger | Miller (MI) | Shuster |
| Herseth | Miller (NC) | Simmons |
| Hill | Miller, Gary | Simpson |
| Hinojosa | Mollohan | Skelton |
| Hobson | Moore | Smith (MI) |
| Hoeffel | Moran (VA) | Smith (NJ) |
| Hoekstra | Murphy | Smith (TX) |
| Holden | Murtha | Snyder |
| Holt | Musgrave | Solis |
| Honda | Myrick | Souder |
| Hooley (OR) | Nadler | Spratt |
| Hostettler | Napolitano | Stearns |
| Houghton | Neal (MA) | Sullivan |
| Hoyer | Neugebauer | Sweeney |
| Hulshof | Ney | Tauscher |
| Hunter | Northup | Tauzin |
| Hyde | Norwood | Taylor (NC) |
| Inslee | Nunes | Terry |
| | | Thomas |
| | | Thornberry |
| | | Tiahrt |
| | | Tierney |
| | | Toomey |
| | | Turner (OH) |
| | | Turner (TX) |
| | | Upton |
| | | Van Hollen |
| | | Vitter |
| | | Walden (OR) |
| | | Walsh |
| | | Wamp |
| | | Watson |
| | | Watt |
| | | Waxman |
| | | Weiner |
| | | Weldon (FL) |
| | | Weldon (PA) |
| | | Wexler |
| | | Whitfield |
| | | Wilson (NM) |
| | | Wilson (SC) |
| | | Wolf |
| | | Woolsey |
| | | Wynn |
| | | Young (AK) |
| | | Young (FL) |

NOES—67

| | | |
|---|---|---|
| Baird | Johnson, E. B. | Sabo |
| Baldwin | Jones (OH) | Sanchez, Loretta |
| Brady (PA) | Kennedy (MN) | Sandlin |
| Capuano | Kennedy (RI) | Schakowsky |
| Cooper | Kucinich | Stark |
| Costello | Larsen (WA) | Stenholm |
| Crane | Levin | Strickland |
| DeFazio | Lewis (GA) | Stupak |
| Dicks | LoBiondo | Tanner |
| English | Majette | Taylor (MS) |
| Evans | McDermott | Thompson (CA) |
| Filner | McGovern | Thompson (MS) |
| Ford | McNulty | Tiberi |
| Fossella | Menendez | Towns |
| Graves | Miller, George | Udall (CO) |
| Green (TX) | Moran (KS) | Udall (NM) |
| Gutknecht | Oberstar | Velázquez |
| Hart | Olver | Visclosky |
| Hefley | Otter | Waters |
| Hinchey | Pastor | Weller |
| Jackson-Lee (TX) | Peterson (MN) | Wicker |
| Jefferson | Porter | Wu |
| | Ramstad | |

ANSWERED ''PRESENT''—1

Tancredo

NOT VOTING—23

| | | |
|---|---|---|
| Abercrombie | Harris | Nethercutt |
| Boucher | Hastings (FL) | Pombo |
| Conyers | Isakson | Quinn |
| DeLay | Kilpatrick | Ross |
| DeMint | Lewis (CA) | Saxton |
| Doggett | Lipinski | Slaughter |
| Emerson | Manzullo | Smith (WA) |
| Gephardt | McInnis | |

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1446

So the Journal was approved.

The result of the vote was announced as above recorded.

## GENERAL LEAVE

Mr. THOMAS. 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. 4520.

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

There was no objection.

## PERMISSION TO INSERT EXCHANGE OF LETTERS ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that an exchange of letters between the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture, and the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, be made a part of the RECORD.

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

There was no objection.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
*Washington, DC, June 10, 2004.*

Hon. BILL THOMAS,
*Chairman, Committee on Ways and Means, Washington, DC.*

DEAR CHAIRMAN THOMAS: I am writing concerning the markup of H.R. 4520, the ''American Jobs Creation Act of 2004,'' which is scheduled for Monday, June 14, 2004.

As you know, the Committee on Agriculture has jurisdiction over matters concerning reforms to Federal tobacco programs. Title VII of the introduced bill involves an effort to reform the market for tobacco growers and thus falls within the jurisdiction of the Committee on Agriculture.

However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 4520, and would ask that a copy of our exchange of letters on this matter be included in the CONGRESSIONAL RECORD during floor consideration.

Best regards,

BOB GOODLATTE,
*Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
*Washington, DC, June 10, 2004.*

BOB GOODLATTE,
*Chairman, Committee on Agriculture, Washington, DC.*

DEAR CHAIRMAN GOODLATTE: Thank you for your letter regarding H.R. 4520, the ''American Jobs Creation Act of 2004.'' As you have noted, the Committee has scheduled to hold a markup of H.R. 4520 on Monday, June 14, 2004. I appreciate your agreement to expedite the passage of this legislation although it contains provisions within your Committee's jurisdiction. I acknowledge your decision to forego further action on the bill is based on the understanding that it will not prejudice the Committee on Agriculture with respect to its jurisdictional prerogatives or the appointment of conferees on this or similar legislation.

Our committees have worked closely together on this important initiative, and I am very pleased we are continuing that cooperation. Your leadership on agricultural issues is critical to the success of this bill. I appreciate your helping us to move this legislation quickly to the floor.

Finally, I will include in the CONGRESSIONAL RECORD a copy of our exchange of letters on this matter. Thank you for your assistance and cooperation. We look forward to working with you in the future.

Best regards,

BILL THOMAS,
*Chairman.*

---

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, June 14, 2004.*

Hon. BILL THOMAS,
*Chairman, Committee on Ways and Means, Washington, DC.*

DEAR CHAIRMAN THOMAS: In recognition of the desire to expedite floor consideration of H.R. 4520, the ''American Jobs Creation Act of 2004,'' the Committee on the Judiciary hereby waives consideration of the bill.

Certain sections of H.R. 4520 contain matters within the Committee on the Judiciary's Rule X jurisdiction: Section 416 (extension of provision allowing disclosure of tax information for law enforcement and terrorism investigation purposes); Section 613 (limitation on tax practitioners' privilege that applied in Federal courts); Section 620 (creation of civil action to enjoin tax shelters); Section 657(b) (increased criminal penalty for failure to register); Section 658 (treatment of court jurisdiction for collection on customs bond); Section 681 (creation of civil action against private collection agents); and Section 691 (study of DHS fees to the extent that it covers fees of components over which the Committee on the Judiciary has jurisdiction). Because of the need to expedite this legislation, I will not seek a sequential referral of this legislation.

The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over these provisions is in no way diminished or altered. I would appreciate your including this letter in your Committee's report on H.R. 4520 and the CONGRESSIONAL RECORD during consideration of the legislation on the House floor.

Sincerely,

F. JAMES SENSENBRENNER, JR.,
*Chairman.*

---

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
*Washington, DC, June 15, 2004.*

Hon. F. JAMES SENSENBRENNER, JR.,
*Chairman, Committee on the Judiciary, Washington, DC.*

DEAR CHAIRMAN SENSENBRENNER: Thank you for your letter regarding H.R. 4520, the ''American Jobs Creation Act of 2004.'' The Committee on Ways and Means ordered favorably reported, as amended, H.R. 4520, the ''American Jobs Creation Act of 2004,'' on Monday, June 14, 2004. I appreciate your agreement to expedite the passage of this legislation although it contains several judicial and court provisions which are shared with your Committee's jurisdiction. I acknowledge your decision to forego further action on the bill is based on the understanding that it will not prejudice the Committee on the Judiciary with respect to its jurisdictional prerogatives on this or similar legislation.

Our committees have long collaborated on these important initiatives, and I am very pleased we are continuing that cooperation. Your leadership on judicial issues is critical to the success of this bill. I appreciate your helping us to move this legislation quickly to the floor.

Finally, I will include in the CONGRESSIONAL RECORD a copy of our exchange of letters on this matter. Thank you for your assistance and cooperation. We look forward to working with you in the future.

Best regards,

BILL THOMAS,
*Chairman.*

---

□ 1445

## GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 4568) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2005, and for other purposes, and that I may include tabular and other extraneous material.

The SPEAKER pro tempore (Mr. LATOURETTE). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

---

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 674 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4568.

□ 1345

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4568) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2005, and for other purposes, with Mrs. BIGGERT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, June 16, 2004, the amendment by the gentleman from Arizona (Mr. FLAKE) had been disposed of and the bill was open for amendment from page 77, line 9, through page 139, line 22.

Are there further amendments to this portion of the bill?

AMENDMENT NO. 18 OFFERED BY MR. HINCHEY

Mr. HINCHEY. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 18 offered by Mr. HINCHEY:

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

TITLE V—ADDITIONAL GENERAL PROVISIONS

SEC. 501. None of the funds made available in this Act may be used to kill, or assist other persons in killing, any bison in the Yellowstone National Park herd.

Mr. HINCHEY. Madam Chairman, first I want to thank my good friend, the gentleman from New Hampshire (Mr. BASS) for cosponsoring this amendment with me. This is an amendment which will protect the Yellowstone bison. The Yellowstone bison are unique, in that they are the last element that traces its genetic strain back to the American bison that roamed the great plains and prairies of America in the early years of our history and of course much before that.

In the 18th century, it is estimated that there were between 20 and 40 million American bison in the Midwest and the West of the United States between the Appalachians and the Rockies.

By the advent of the 20th century that number had dwindled to 25. The American bison was almost extinct, and it almost followed the path of the passenger pigeon, but due to the intervention of conservationists and the efforts of this House, measures were taken to preserve the American bison. As a result of that, their numbers turned around and they began to prosper once again under that protection.

The American bison has become an American icon. It was on one of our coins. It is seen across the country in a variety of ways. It represents the great freedom that was inherent in the vast plains and prairies of America.

But now the American bison, the last genetic strain that traces its history back to those that roamed this country and earlier centuries, is in great danger. It is in great danger as a result of the activities of the Park Service and the harassment of these animals out of Yellowstone National Park, west and northwest of the park and then the capture and slaughter of those animals.

The amendment that the gentleman from New Hampshire (Mr. BASS) and I offer today would restrict funding in this appropriations bill so no money could be used to carry out that capture and slaughtering process for 1 year so we will have an opportunity to look into this situation, examine it closely, see what is being done and understand it better.

Now there are some Members who contend that this slaughter is necessary because bison may transmit brucellosis to cattle on the fringes of Yellowstone. First of all, there are hardly any cattle on the fringes of Yellowstone. And what are there, most of those are trucked in in the summertime when the bison are back in the park. Furthermore, according to the National Academy of Sciences, there has never been one single example of the transmission of brucellosis from bison to cattle. It has never occurred.

Yes, brucellosis can be transmitted from animals in the wild, and it has been shown that brucellosis can be transmitted from elk in Yellowstone and elsewhere to cattle, but there is no program to deal with elk in any way. That causes one to wonder whether brucellosis is really a motivation here at all; I suspect it is not. There is

something else going on here, something that we need to get to the bottom of. We need to understand why these animals are being harassed and slaughtered in the way that they are.

Now, this argument comes not just from me and other people who may not be directly involved in this in a material way, it also comes from people who live out there in Montana, people who live up on Horse Butte Peninsula, for example, who have contacted my office and told us how the Park Service and people working with them harass these animals with helicopters and snowmobiles and drive them across the park and across their property and block roads.

The people who live in those communities are tired of it. We were contacted by the Chamber of Commerce in Gardiner, Montana. They told us people come out there in the wintertime to examine the wildlife of Yellowstone in winter conditions. They do not come out there to see the Yellowstone wildlife, particularly the American bison, captured and slaughtered in the way that the Park Service is doing it.

So what we want to do here is stop this outrageous activity from continuing to occur for the extent of this bill over the next year. I hope that the majority of the Members of this House will see the clear inherent benefits and the sensibilities of this and they will join us in supporting this amendment.

Mr. TAYLOR of North Carolina. Madam Chairman, I rise in opposition to the amendment.

None of us are comfortable with this issue, but let me attempt to provide Members with some facts.

The record of decision was signed in December 2000 by then-Secretary of the Interior Bruce Babbitt and then-Secretary of Agriculture Dan Glickman and the Governor of Montana. This document was a long-term plan for bison management in the region. The main objectives were to maintain a free-ranging bison population and manage the risk of transmission of brucellosis from bison to cattle. Both the State and the Park Service have specific responsibilities under this agreement. The plan is effective, and the bison population there has continued to grow to over 4,000 from 2,000 a decade ago.

The real issue arises when bison go outside the park boundary into Montana, a brucellosis-free State. When this occurs, bison are captured, tested and some are shipped to slaughter. On occasion, bison that resist repeated hazing and capture are removed. This spring, there was a dangerous situation of this kind involving one aggressive bull bison. The animal could not be hazed back into the park from private property and had to be lethally removed under the direction of the State officials.

The Park Service had opened the Stevens Creek Capture Facility within park boundaries. This facility was required under the original Babbitt management plan. Captured animals are tested and released if negative and removed if positive. This is a very difficult situation. However, there has been no change to the original record of decision, and the State and the National Park Service are abiding by this agreement.

We have recommendations from the National Wildlife Federation to the gentleman from New York (Mr. HINCHEY) saying, ''We positively applaud your commitment and desire to curtail the unnecessary killing of Buffalo. We respectfully submit that your amendment would neither achieve this goal nor advance the cause of Yellowstone buffalo conservation in any meaningful way. In fact, your amendment, if enacted, would lead to slaughter of more animals.'' Let me read that again. ''It will lead to slaughter of more animals than under the current management plan.'' This is the National Wildlife Federation writing to the gentleman from New York (Mr. HINCHEY).

We also have a similar letter from the InterTribal Bison Cooperative.

Madam Chairman, I certainly agree with the general concept of the gentleman from New York (Mr. HINCHEY) but this will not do it, and I strongly oppose this amendment.

Mr. BASS. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in support of the amendment offered by the gentleman from New York (Mr. HINCHEY). In response to my friend, the gentleman from North Carolina (Mr. TAYLOR), the basic issue here is it is not necessary to kill American bison. As the gentleman mentioned when he said his opening remarks, the Department of Interior and the National Park Service both prominently display as their logos the American Buffalo. The 42nd Congress in 1872 passed legislation creating Yellowstone National Park, and it required that the Secretary of the Interior ''shall provide against the wanton destruction of the fish and game found within said park, and against their capture or destruction for the purpose of merchandise or profit.''

In 1999, the Congress spent $13 million to set aside additional Federal lands to ensure that animals in the park could migrate during the winter and summer seasons. This is in addition to the hundreds of millions of dollars which have been wisely spent to provide good stewardship of the land and protection of the wildlife for the public's benefit. Yet the National Park Service also spends millions to harass and shoot the very animals that they are supposed to be protecting. This past winter alone, they captured 482 bison and they killed 277 of them. It is absurd.

This expenditure is a waste of taxpayers' dollars when there are other reasonable methods to manage one of our Nation's premier wildlife icons.

Our amendment would place a 1-year moratorium on Park Service funding that is used for lethal management and would force the agency to redirect its resources toward common-sense wildlife management endeavors more in keeping with its proud record of stewardship. A few common-sense measures to safeguard livestock, fencing, vaccinations, working proactively would be far more productive and less destructive than the system and program we have in place today.

The buffalo and other wildlife are why we have this park in the first place. We allow cattle grazing on it because there is enough room for both resources, but then to use the false fears of cattle ranchers as an excuse to kill these buffalo is absurd. If the ranchers do not want to risk their cattle on these Federal lands, they have many different resources, but the bison do not.

Let us be clear, however. This is an amendment that is designed to halt the wasteful and unnecessary attack on the American bison. It is not about hunting and it would not affect traditional wildlife management tools such as hunting outside the national park. The basic question here is should we kill buffalo from Yellowstone National Park with one dollar while we spend other dollars on the other hand to protect them. To me it is one of these crazy concepts that needs to be stopped. It will be stopped if Members vote in favor of this amendment.

Madam Chairman, I urge the committee to support the pending amendment.

□ 1500

Mr. MORAN of Virginia. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I want to thank the gentleman from New York (Mr. HINCHEY) and the gentleman from New Hampshire (Mr. BASS) for this very responsible, appropriate amendment. It is not just a matter of a waste of taxpayers' money. This is a shameful, disgraceful policy. Here are the facts: there has not been one confirmed incidence of brucellosis transmission in the wild from buffalo to cattle. Not a one. In fact, the risk is so low as to be immeasurable according to the National Academy of Sciences.

Buffalo with brucellosis and cattle have grazed together for over 50 years in the Jackson Hole area south of Yellowstone without any incident of disease transmission. The irony here is that we do know that elk can transmit this disease to cattle. In fact, it did happen in Wyoming. But we do not kill or harass the approximately 13,000 elk that are in Yellowstone. They are allowed unfettered access, as I think they should be; although you could develop a wildlife management plan. But there is no excuse for what we are doing to the buffalo.

Four thousand buffalo have been killed over the last 20 years. In the last year, 480 were caught and most of them were killed. It does not make sense. It is wrong. This, as we understand, is the

only pure-bred herd that is allowed to roam where they have always traditionally roamed. Is that not of some value in our Nation? Back at the turn of the 20th century, in the very early 1900s, we sent soldiers and settlers out to create grazing lands, and they slaughtered the buffalo. Thousands you could see dead on the plains allowed to rot because they just wanted to kill them off, whereas the Native Americans had a belief that you do not kill unless you have purpose, unless you need to eat or for clothing.

For thousands of years under the stewardship of our Native Americans the buffalo herd prospered. We came out, almost exterminated the buffalo, and finally they are coming back on the land that has a natural ecosystem. We are told that in fact there is no risk to the ecosystem, that in fact the greater Yellowstone ecosystem is not threatened whatsoever with regard to the ecological carrying capacity for bison in Yellowstone. If you look at all the facts, even the fact that there is one rancher from Idaho that trucks a herd of 150 cows to fenced private pasture in Horse Butte in the summer, the buffalo are already back in the park far away from the cows. So why would you kill 4,000 buffalo to protect a few hundred cows when they are not even nearby? There is something gratuitously destructive about this policy.

Even the people that live near Yellowstone, including the Chamber of Commerce, do not want this policy. People come to see the buffalo, and here we were told just recently by somebody that was there, there are helicopters shooting at them, harassing them. That is not why you go to a national park.

This policy is absolutely wrong. We can find no justification for it. It is shameful. Our stewards that work for the Park Service do not want to be doing this kind of thing. This is unnatural to what they are all about. I do not know what is driving this policy, but it has got to change. I suggest it is because there are some people who want an opportunity to hunt the buffalo—but they are basically cows—where is the sport in that? The buffalo are part of our heritage. We had them on the back of the nickel. It means something to protect a species that is native to this land that was integral to the survival of the Native American peoples.

And so I would very strongly urge this body to pass this amendment. It is a responsible amendment. It is justified. The policy that it overturns is not justified. Madam Chairman, I urge my colleagues to vote for this amendment. Let us rectify this situation. Let us restore the buffalo to their natural habitat and enable Park Service rangers to conduct the kind of professional responsibilities that they want to be doing and not carrying out a policy that they know is ill-advised and destructive of a species that desrves to be protected and preserved.

Mr. GOODLATTE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in strong opposition to this amendment for a lot of reasons. In December 2000, the National Park Service, the U.S. Department of Agriculture, and the State of Montana finalized a long-term management plan for the Yellowstone bison herd. This plan brought to a close more than 8 years of public rulemaking, court proceedings, and intense negotiations over how the Yellowstone bison herd should be managed.

I am not alone in opposition to this amendment. Yesterday, the National Wildlife Federation sent a letter to the author of this amendment saying, ''On behalf of the 4 million members and supporters of the National Wildlife Federation, we are writing to urge you not to offer an amendment to the fiscal year 2005 Interior appropriations bill restricting funding for the National Park Service with respect to Yellowstone bison. In fact, your amendment, if enacted, would lead to the slaughter of more animals than under the current management plan. Your proposed amendment, if similar to the amendment offered in fiscal year 2004, and it is, would effectively block the National Park Service from operating its Stevens Creek facility where more than 100 buffalo are tested for brucellosis, held inside Yellowstone, and ultimately repatriated back in the park if they test negative. It's true that buffalo testing positive for the disease at Stevens Creek are sent to slaughter; but under the terms of your amendment, these animals would be killed when they leave the park, by Montana's Department of Livestock'' which this amendment cannot stop.

The InterTribal Bison Cooperative sent a letter yesterday urging the proponents of this amendment to not offer it because it ''may hinder the progress that is being made toward the eventual relocation of Yellowstone buffalo to tribal lands in other locations.'' And the U.S. Sportsmen's Alliance yesterday sent a letter urging opposition to this amendment, saying that this is an anti-management amendment that would supersede the professional judgments of trained wildlife scientists in Federal and State resource agencies.

The greater Yellowstone area is one of the last known reservoirs for brucellosis in the United States. Tests indicate that up to 50 percent of the bison in the park are potentially infected. There have also been scientifically documented cases of bison and elk transmitting brucellosis to cattle under both range and experimental conditions. The bison management plan relies on separation of bison from cattle that graze in areas surrounding the park. As bison leave the park during winter, management zones are used to monitor the movement of the bison and ensure that bison and cattle do not intermingle. The bison are phased back into the park at the beginning of the spring season. Bison outside the park's boundaries past the onset of spring are captured or removed. In addition, cattle are not allowed to graze on public land outside the park until enough time has passed after the bison leave to ensure that the brucellosis bacteria is no longer a threat.

While it is unfortunate that Park Service employees must sometimes remove bison that have left Yellowstone Park, it is important to note that these operations are targeted and only one component of a much larger effort to preserve the health and viability of the entire bison herd. If left unaddressed, the brucellosis situation in the Yellowstone area represents a threat to livestock health in the United States. In 2002, a cattle herd in Idaho was infected with brucellosis which was linked to elk from the greater Yellowstone area. In 2004, Wyoming lost its brucellosis cattle-free status due to the detection of the disease in two cattle herds that were again infected by elk from the greater Yellowstone area.

It is critical that Park Service employees be permitted to carry out their roles under the current management plan. I urge Members to join me; the chairman of the subcommittee; the National Wildlife Federation; the InterTribal Bison Cooperative, which is comprised of dozens of Indian tribes in the western part of the United States; and the U.S. Sportsmen's Alliance in opposing a bad amendment. Bad for bison, bad for Yellowstone National Park, bad for the cattle industry, and bad for the Montana-Wyoming area of this country.

Mr. STENHOLM. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I want to associate myself with the remarks of the gentleman from Virginia (Mr. GOODLATTE) and add a few other points in opposition to the gentleman from New York's amendment. I appreciate all of those who support this amendment for their desire to protect a noble species. However, it seems clear to most people, and we have heard from the National Wildlife Federation, the InterTribal Bison Cooperative and others who live in that area who understand that this is more than an effort to protect a species.

In fact, those who oppose this amendment are the ones that are out to protect the species. Brucellosis when it occurs in a cattle herd or in a dairy herd, a beef cattle or a dairy herd, oftentimes the entire herd is disposed of in order to bring about control of the disease. In a few cases, individual animals are slaughtered in order to bring under control the disease. That is what is attempting to be done now in Yellowstone Park and in other areas of this region. We have a serious disease problem that cannot be controlled by good intentions on this floor.

We have to keep in mind that the continued infected status of these

bison is not just a threat to their continued reproduction but it also threatens our beef herd with reinfection from a disease we have spent millions of dollars trying to eradicate. As the steward of American wildlife, the Federal Government has a responsibility to manage all wildlife in a way that minimizes these sorts of negative impacts on private citizens and their property. That is what the policy that is now going on in Yellowstone is not only attempting to do but will do if we just allow it.

Again, I appreciate the author and all of those who speak in favor of this issue today, but I believe that this is another example upon close scrutiny of unintended consequences which often attend efforts in this body. Many well-intentioned efforts at Federal intervention, especially when local stakeholders have already negotiated their own agreements, end up producing worse outcomes for all involved. It seems clear that in this case that those made worse off include the North American bison herd. I encourage all Members to oppose this amendment. The best way to take care of the buffalo is to allow sound science to work with those who live in that area and who truly appreciate it; and the Indian tribes who would like to see more buffalo returning to their tribal lands certainly know more about it than any of us in this body today.

Mr. REHBERG. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, oftentimes I think that maybe Montana creates some of its own problems for itself because we encourage people to come to Montana and make movies like ''A River Runs Through It'' or ''The Horse Whisperer'' and do stories on Jeremiah Johnson, but it gives an unnatural opinion or vision to people on the east coast that frankly shocks me.

I just do not understand how anybody that truly loves their park could support an amendment like this. I was Lieutenant Governor before I was a Congressman so I was intimately involved in the negotiations on this process. I am also a land manager. I make my living understanding the mineral cycle and the water cycle, understanding what it is like to overgraze and undergraze and overlog and underlog, that there are various cycles that exist within society. So if I could put it to the sponsors in language that they can understand, maybe I ought to talk like Ranger Rick and suggest to them that when a bull and a cow get together, they have calves. And when you have calves, eventually you overpopulate.

They have used the number 4,000 killed. That is over 20 years. Last year three were shot, because they needed to be. Nobody wants to shoot them. But some of them are uncontrollable. But the problem is 40 percent of the herd in Yellowstone Park are infected with brucellosis. Do you not care enough about your bison to want to have a healthy herd? They abort their calves. They kill their own calves because of a health issue.

The proponents are loving their park to death. Give us the opportunity to use the memorandum of understanding that is in place to manage the herd for the betterment of the park. What are the odds of getting Bruce Babbitt, Glickman, and Mark Racicot in the same room and getting them to sign an agreement?

□ 1515

It is called the consensus process. In fact, it was so good, we set up a consensus council in Montana to keep people from divvying in the corners and suing their way back out, to find middle ground. They liked it so well, Mr. Glickman and Mr. Racicot, that they have asked me to carry legislation in Congress to create a national consensus council, to bring this kind of a solution to the national level.

There are a number of things I want to talk about real quickly. One is human health. It is called undulate fever. One gets it, and it is a strain of brucellosis, from lifestock, sometimes elk, sometimes bison, sometimes cattle. One gets it, they have it forever. And it shows up in the CDC right next to anthrax in severity. It is a bacteria, not a virus. Brucellosis through humans is called undulate fever, and it is right up there with anthrax.

Herd health: 13,000 elk in Yellowstone Park and the surrounding area have brucellosis. It is another problem we are going to have to address. This is going to get even more expensive to try to solve. We cannot ignore the elk problem that have brucellosis as well.

Cattle: This is strictly a matter of prevention. Is it not interesting we have 93 million head of beef in America today and we had one case of mad cow, one mad cow situation in the State of Washington. And look at all the protocol we are putting in place today to try to keep it from entering into the human food chain and into the livestock food chain, but when we have 50 percent of the herd in Yellowstone Park, it does not seem to be a problem because it is the icon. It certainly is to us as well, but we want a healthy herd.

No degradation to the ecosystem? To my friend from Virginia, maybe his natural resource management skill is mowing his lawn, but he ought to go out and take a look at Yellowstone and see what the over 4,000 head of bison are doing to their riparian area. They are eating the grass down to nothing. They are creating a parking lot along those rivers and streams. They are overpopulated. The reason the National Academy of Science established a figure of between 2,300 and 3,000 head is that there is a finite ecosystem. They cannot overpopulate because if they overpopulate, they destroy their environment.

If we managed federal properties on the Bureau of Land Management properties with cattle the way the National Park Service is ignoring the overpopulation, you would throw us in jail because we are overpopulating and we are destroying the environment.

Mr. DICKS. Madam Chairman, will the gentleman yield?

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

Mr. DICKS. Madam Chairman, has the gentleman supported the reintroduction of the wolf as the predator in Montana?

Mr. REHBERG. I have not.

Mr. DICKS. Madam Chairman, would that not be a natural thing to do if they have these animals that are overpopulated?

Mr. REHBERG. Madam Chairman, the gentleman makes my point exactly because if we could tell the wolves to stay behind the fence the same way we are trying to expect the bison to respect the fences of Yellowstone Park, we would not have a problem. Reintroduce the wolves into Yellowstone Park. The problem exists when they get outside of Yellowstone Park and they start decimating domestic herds, taking away the livelihood of Montana families who are just trying to pay for their kids in schools and their college education and their shoes for their families as well.

Mr. BLUMENAUER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I have been listening to my friend from Montana's presentation, and I noted the reference to mad cow disease. Would that we had the same zeal on the part of the Department of Agriculture to protect American consumers from mad cow disease, a sort of zero tolerance that is being advocated here dealing with the bison. It may well be the reason we have only discovered one case of mad cow disease in the United States is because the American consumer for years has been eating the evidence. We have such a limited, tiny sampling process at present, unfortunately, our not being able to find out in a wide and broad fashion whether or not we have a problem. I note no small amount of irony that we are going to prosecute the poor hapless beef producer in the Midwest who wanted to test all their beef for mad cow so that it could be exported again to Japan.

Listening to the debate here today, the Chair of the Committee on Agriculture is making a compelling case for more aggressive action for elk, but as has been pointed out from my colleague from New Hampshire, my colleague from New York, there has not yet been a documented case dealing with the bison. Never a confirmed incident of brucellosis transmission in the wild from buffalo to cattle. Yet we have got 13,000 Yellowstone elk, some of which are infected after we have documented the problems, that are allowed to wander unfettered to federal land outside the park. It seems at least from a distance that Montana has a different philosophy from Wyoming.

I see my colleague from Wyoming perhaps approaching the well, but it seems that Wyoming does not deem buffalo to be a threat to the cattle because for more than 4 decades buffalo with brucellosis and cattle have grazed together in the Grand Teton National Park evidently without incident.

It would seem to me that what has been proposed in this amendment is a simple common sense approach to just have a 1-year moratorium. It is not seeking to establish in law at this point, a prohibition, but giving an opportunity to array the evidence, having an opportunity to look at less invasive solutions. Maybe we only have killed three by shooting them, but my understanding is that we had 277 that were sent to slaughter. It may be a distinction without a difference if one is a bison whether they are shot or sent away to be slaughtered. I would hope that there would be an opportunity for us to think about how we are upsetting these natural ecosystems. I would hope that we could look in a broader context for wildlife management. I would hope that there would be an opportunity for people to not single out bison for slaughter when it appears, from what we have heard on the floor today, that the problem instead is one of infected elk which are treated differently and will continue to be treated differently.

I would respectfully suggest that we adopt the amendment from the gentleman from New York and the gentleman from New Hampshire, give us a year's breathing room, be able to find ways to solve this problem in the future in ways that deal with a more humane treatment for our American Great Plains icon.

Mrs. CUBIN. Madam Chairman, I move to strike the requisite number of words.

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

Mrs. CUBIN. Madam Chairman, with all the misinformation that is floating around in this Chamber today, I hardly know where to start. But one place I will start is I would request that the Members on the other side who have supported and offered this amendment ask the Sierra Club or the Natural Resources Defense Council to update the notes that they give them to speak on the floor because there is so much misinformation that is out there. And I will clarify some of that.

It is amazing to me that the people who are offering and supporting this amendment I know for a fact have never attended the Greater Yellowstone Interagency Brucellosis Committee meetings that have been going on for several years. All the stakeholders are involved. The environmentalists are at the table as well as the Park Service and the other stakeholders. Were this a goodwill amendment, they would have more information than what they read in their radical environmentalist journals.

While I understand that some folks do not approve of the management techniques used by the Greater Yellowstone Interagency Brucellosis Committee, this amendment is truly misguided. By the way, to my colleague from Oregon, Wyoming does have a brucellosis problem, and Wyoming is not a brucellosis-free State anymore. That happened early this year because herds of cattle were commingling with elk. And so once again it would be really good if the gentleman could have current, accurate information before he delves into something that is so sensitive.

It has been said, and it is entirely true, that the population of bison in the park is truly degrading the environment because there are too many. As I said, my State of Wyoming lost its brucellosis-free status earlier this spring due to the commingling of brucellosis-infected wildlife in Yellowstone in the ecosystem with domestic cattle herds this year. Some estimates indicate that this has cost the agricultural community in Wyoming $22 million already, and the year is only half over. I think a vote for this amendment will be a vote against those agricultural families.

There is a delicate balancing act for all of the parties involved to address the needs of the environment, the federal and private stakeholders. Bison numbers are at capacity, and that is not an issue that is even up for debate. According to everyone, the bison has reached its total capacity in the Yellowstone ecosystem. We have to actively manage this herd so that we can preserve the ecosystem. To not do so would upset the greater Yellowstone ecosystem.

This amendment would make the decade-long efforts of public and private stakeholders in vain by limiting the use of federal funds to aid in Park Service management efforts that result in the reduction of the bison herd. By taking one of the Park Service's tools out of their tool box in bison and brucellosis management, this amendment reduces our ability to effectively control the bison herd at a time when its numbers are at maximum capacity.

I want the Members to know this amendment will not reduce the reduction of bison leaving Yellowstone and Grand Teton National Parks. They will continue to leave. And what will happen is the surrounding States will take a more active role in reduction activities to protect their livestock industries with or without the aid of the Park Service.

So if my colleagues do not like the way the animals are killed, that is one thing. But the fact is the numbers have to be reduced. This is nothing more than feel good legislation that ignores the facts, all the stakeholders' concerns, and the real world lack of a magic solution bullet to fix this problem. There simply is not one.

This is bad policy. It is bad for the environment. It is bad for the American West.

I do think it is ironic that these easterners, with the exception of my friend from Oregon, offer amendments about a very serious issue of which they have very little knowledge. I noticed the gentleman from New York (Mr. HINCHEY) shaking his head no when the fact was brought forward that three bison were shot last year. That is the case.

I ask my friends to vote against this amendment and suggest that the people who have made the amendment offer their advice to the Buffalo Bills. Maybe then they could beat the Denver Broncos.

The CHAIRMAN pro tempore (Mrs. BIGGERT). The time of the gentlewoman from Wyoming (Mrs. CUBIN) has expired.

(On request of Mr. BLUMENAUER, and by unanimous consent, Mrs. CUBIN was allowed to proceed for 2 additional minutes.)

Mr. BLUMENAUER. Madam Chairman, will the gentlewoman yield?

Mrs. CUBIN. I yield to the gentleman from Oregon.

Mr. BLUMENAUER. Madam Chairman, because, as fellow westerners, I did not want there to be a misunderstanding, what I said when I was on the floor earlier was that there had been four decades of having buffalo grazing in the Grand Teton Park with cattle without incident. Does the gentlewoman have evidence that I misspoke, that there have been problems in the last four decades between the buffalo and the cattle in the Grand Teton National Park?

Mrs. CUBIN. Madam Chairman, actually I cannot answer that specifically for Grand Teton National Park, but I can say that the fact is there is evidence now that brucellosis was spread from elk to cattle. That is a fact, which my colleague said has never happened.

Mr. DICKS. Madam Chairman, will the gentlewoman yield?

Mrs. CUBIN. I yield to the gentleman from Washington.

Mr. DICKS. Madam Chairman, there is no evidence, is that not correct, that even the National Wildlife Federation letter says that this part of the case is overstated, the threat of the buffalo to the cattle has not been established, I mean in terms of brucellosis being picked up by the cattle? Is that not correct?

Mrs. CUBIN. That is correct.

Mr. DICKS. Also, Madam Chairman, I ask the same question to the gentleman from Montana. I ask him the same question. Many of us supported the reintroduction of the gray wolf, which was extremely controversial because it would give them the top predator in the food chain, who would then go in and take down the sick and aging elk and buffalo, and I know that is sensitive, but if my colleague says he wants to reduce the size of the herd, the natural way to do that is with predation.

□ 1530

Mrs. CUBIN. Madam Chairman, reclaiming my time, that is such a huge

subject. Once again, that wolf reintroduction program has not created the behaviors in the wolves that were expected at the time they were reintroduced. So this is too big a subject for us to go into right now.

But my friend from Montana made the point perfectly well. You are making our point for us. They do not know where the boundary is, the bison do not and the wolves do not.

The CHAIRMAN pro tempore (Mrs. BIGGERT). The time of the gentlewoman from Wyoming (Mrs. CUBIN) has expired.

(On request of Mr. REHBERG, and by unanimous consent, Mrs. CUBIN was allowed to proceed for 2 additional minutes.)

Mr. REHBERG. Madam Chairman, will the gentlewoman yield?

Mrs. CUBIN. I yield to the gentleman from Montana.

Mr. REHBERG. Madam Chairman, I have all the sympathy in the world for Wyoming losing its brucellosis status, because you know as well as I do it costs millions of dollars to prove to everyone again that you are brucellosis free. So you have got a situation that I do not envy and we do not want to happen.

And that makes the point exactly. Why are we doing what we are doing with mad cow with the one case in Washington? Because of the devastating effect it could have. It is all a matter of preservation and prevention and protection of it occurring.

Now, one of the points that was made is there is no proof. Well, that is part of the difficulty. We want Yellowstone Park to be as natural as possible. You have to actually physically, visually be there to see it occur. So we do not know where it is coming from.

But we do know, through common sense, that it can be transferred from elk to cattle and bison to cattle. So rather than it even occurring, as my colleague from Wyoming clearly understands, you spend the money and you take the time and the effort to see that it does not happen.

How can anybody argue with wanting to have the most healthy herd of bison in Yellowstone Park and ultimately the most healthy herd of elk in the greater Yellowstone area, which is what we are attempting to accomplish?

Mr. KUCINICH. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I had the opportunity to visit Yellowstone a couple of weeks ago and to meet with groups of citizens who are actively involved in trying to protect the wild and free-roaming buffalo of Yellowstone National Park; and it is their position, and having been on the site and seen where buffalo follow migration patterns, it is their position that everything should be done to make sure that these free-roaming buffalo are protected for future generations.

One of the things that has not been brought up in the debate that I would like to add at this time is the importance of protecting these buffalo as a genetically unique herd.

I enter into the RECORD of this discussion here remarks that were made by a Texas A&M professor in the Department of Veterinary Pathobiology, who said ''The so-called random shooting at the Montana borders is actually eliminating or depleting entire maternal lineages; therefore, this action will cause an irreversible crippling of the gene pool. Continued removal of genetic lineages will change the genetic makeup of the herd; thus it will not represent the animal of 1910 or earlier. It would be a travesty to have people look back and say we were idiots for not understanding the gene pool.''

The so-called random shooting at the Montana borders is actually eliminating or depleting entire maternal lineages, therefore this action will cause irreversible crippling of the gene pool. Continued removal of genetic lineages will change the genetic makeup of the herd, thus it will not represent the animal of 1910 or earlier. It would be a travesty to have people look back and say we were ''idiots'' for not understanding the gene pool. Bison have developed a natural resistance genetically as long as they have enough to eat, limited stress and are not consumed by other disease. There is no magic bullet in wildlife disease, therefore management is important. Vaccines are one management tool and one component, but genetic structure is necessary for future management. Every animal which is removed from the breeding population can no longer contribute to the genetic variability of the herd.

So there are genetic implications to this action as well. We have to understand that what is happening here is that buffalo in the greater Yellowstone ecosystem, according to the Save the Buffalo National Petition, are not protected on traditional winter habitat to the north and west of Yellowstone National Park.

The park does not provide sufficient winter range, except during mild winters, for the resident herds of buffalo; and buffalo leave the park to forage on lower grasses critical for winter survival. That is not because the park is overgrazed, but because forage is unavailable due to winter conditions. Thus the buffalo follow their instinctual migration routes to lower elevation and unwittingly enter a conflict zone where their survival is undermined by politics.

Now, this petition, which is available on the Web, points out that one of the solutions is that the U.S. Government recognize the importance of traditional buffalo grazing and calving lands and migration quarters to the future of wild herds.

The Hinchey petition would protect the status of the free-roaming buffalo.

They also go on to say that the Forest Service should close grazing allotments to settle and reallocate them to the last wild buffalo.

This is something that we need to keep in mind, because on the 7th of June, the Montana Department of Fish and Wildlife and Parks released a draft environmental assessment to analyze the possibility of a sport hunt of buffalo that cross the borders of the Yellowstone National Park into Montana.

We have to see that what is happening here is that buffalo are being hazed with helicopters. Once they go off lands, and sometimes they are on Federal lands, they are subjected to not just hazing but eventual capture and elimination.

I think that we need to see that we have a national obligation here. It is part of our national obligation. This is not about East versus West. This is about who we are as a country.

One of the iconic songs of another generation, ''Home on the Range,'' begins, ''Oh, give me a home where the buffalo roam.'' It did not go on to say, and let us capture them and kill them. It talks about an image of America, which still resides in the hearts of many Americans today.

There are many young people who are working in the area of Yellowstone National Park to save the buffalo, and we ought to be joining their efforts. We ought to be joining it, because this is part of who we are as a Nation, this is a part of America's heritage; and while we need to be concerned about the cattle ranchers, we also need to take into account that according to science there has been no demonstration after transmission of brucellosis from a buffalo herd into cattle.

So we have to go on the facts, but we should also remember who we are as a Nation. Let us protect the buffalo, and let us vote for the Hinchey amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. HINCHEY).

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

Mr. HINCHEY. Madam Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. HINCHEY) will be postponed.

AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SANDERS:

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

TITLE V—ADDITIONAL GENERAL PROVISIONS

SEC. 501. None of the funds made available by this Act shall be used to maintain more than 65,000,000 barrels of crude oil in the Strategic Petroleum Reserve.

MODIFICATION TO AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I ask unanimous consent that the amendment be modified in the form at the desk.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. SANDERS:

On line 3, strike 65,000,000 and insert 647,000,000.

The CHAIRMAN pro tempore. Is there objection to the modification offered by the gentleman from Vermont?

There was no objection.

The text of the amendment, as modified, is as follows:

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

TITLE V—ADDITIONAL GENERAL PROVISIONS

SEC. 501. None of the funds made available by this Act shall be used to maintain more than 647,000,000 barrels of crude oil in the Strategic Petroleum Reserve.

Mr. SANDERS. Mr. Chairman, I do not have to convince any Member of this body that the American people are outraged by the extremely high prices they are currently paying for gasoline. I am sure that you are getting the same calls that I get in my office in Vermont.

As we all know, these exorbitant prices are a serious drag on our economy. They affect small business and farmers, they affect airlines and the trucking industry, they affect middle-income people who drive to work every day and are seeing their wage increases going into their gas tanks. This is a serious national problem.

Now, I understand that there are differences of opinion in this body about long-term solutions to this crisis. We have debated that over the last couple of days. I personally believe we have to take a hard look at OPEC, the cartel which today functions directly in opposition to international free trade law. I think we have to deal with the increased concentration of ownership in the oil industry, and I think the time is long overdue that we have to break our dependency on fossil fuels and move to sustainable energy.

But whether one agrees with my long-term solutions or not, there should be no debate about the need for us to come together now to provide immediate short-term relief to the American people who are hurting from high gas prices.

The concept I am introducing in this amendment has had support from Democrats and Republicans, people from all political views, and I hope and believe that it will win strongly today.

Specifically, this amendment would suspend oil deliveries to the Strategic Petroleum Reserve and cap the Strategic Petroleum Reserve at 647 million barrels of oil, the level that it was in in March of this year, just a few months ago. In other words, we would immediately stop the purchase of more oil for the reserve and release into the market 15 million barrels of oil. This action would have the very immediate impact of substantially lowering gas prices in America.

Mr. Chairman, the Strategic Petroleum Reserve currently contains approximately 662 million barrels and the administration is pushing to increase that number to some 700 million barrels. My amendment would increase the amount of oil on the market and lead to lower cash prices immediately upon its implementation. It would also keep gas prices down by making sure the government is not competing against consumers in the marketplace at a time that gas prices are so high.

Mr. Chairman, extrapolating from at least three economic studies done by Goldman Sachs; the largest crude oil trader in the world, the Air Transport Association; and petroleum economist Phillip Burleger, the estimate is that this amendment could reduce gasoline prices at the pump by 10 to 25 cents per gallon. It is not going to solve the whole problem, but 10 to 25 cents per gallon is not an insignificant step in helping the American consumer.

Mr. Chairman, even the staff at the Strategic Petroleum Reserve recommended against buying more oil for the SPRO in the spring of 2002. They state, ''Commercial inventories are low, retail prices are high, and economic growth is slow. The government should avoid acquiring oil for the reserve under these circumstances.''

Mr. Chairman, a lot of people have come up with this idea. This is not just mine. Members may remember that in March of this year, 53 Members of the House, including 39 of our Republican colleagues, wrote to President Bush calling for a halt of oil deliveries into the SPRO. Let me quote from this letter: ''Dear Mr. President, we are writing to urge that you suspend shipments of oil to the Strategic Petroleum Reserve and allow more oil to remain on the market and available to consumers when supplies are tight.''

I agree with those 39 Republicans and other Democrats who made that request of the President. They are right.

Mr. Chairman, in addition, on March 16 of this year, the Senate passed an amendment by Senators CARL LEVIN and SUSAN COLLINS with a bipartisan majority of 52 to 43 to suspend oil deliveries to the Strategic Petroleum Reserve.

□ 1545

Frankly, there is nothing magical about the 647 million barrels of oil in this bill which this amendment proposes; that is the cap we propose. In conference, that number could be changed. That number simply came about with this amendment because it is where the SPR was in mid-March when the Senate passed its resolution and when the 53 Members of the House, including 39 Republicans, wrote their letter to the President.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise in opposition to the amendment. Even if the gentleman was correct, it would have to be opposed. We have 661 million barrels as of yesterday. The gentleman wants to cap us at 647 million. We cannot by law sell it; therefore, I assume we will pour it out on the ground and that will be 15 million barrels of a large oil spill.

We are not buying any oil now. We have 700 million barrels as our goal, and that is capacity. As I say, we need only 39 million barrels to fill the Strategic Oil Reserve. Oil will come in in kind; where companies are drilling for oil on government lands, our share will come in the form of oil, but we are not buying any oil, and we do not have any intentions right now.

The management of the program right now is to, in tight markets is to not buy any petroleum, and the 39 million barrels that we have to go for our capacity will come in, as I say, through our royalties.

So we cannot sell it, we cannot honor the gentleman's amendment to hold 647 million with the amendment he has. So I recommend we oppose the amendment.

Mr. KUCINICH. Mr. Chairman, I rise in support of the amendment.

The Sanders amendment is something that I believe that people on both sides of the aisle will be able to support, and let me explain why. If I may quote from something previous that the gentleman from Vermont (Mr. SANDERS) has actually presented to this House, he pointed out that releasing oil from the Strategic Petroleum Reserve in the past under both Democratic and Republican administrations has, in fact, lowered the price, lowered the price of gas and crude oil.

When President Clinton ordered the release of 30 million barrels of crude oil from the Strategic Petroleum Reserve in 2000, the price of gas fell by 14 cents a gallon in just 2 weeks. And, when President George H.W. Bush released 13 million barrels of crude oil from the Strategic Petroleum Reserve in 1991, crude oil prices dropped by over $10 per barrel. So those are Democrats and Republicans out there alike who are getting socked by these high prices for gasoline.

So it is up to us to be able to stand up for both Democrats and Republicans alike who are suffering from high gasoline prices.

The Sanders amendment, which I am proud to cosponsor, is a win-win for consumers and for the Federal Government. It is going to reduce the price of gas. People want to know, Congressman, what will you do to reduce the price of gasoline? The Sanders amendment. It will reduce the price of gas and reduce the deficit at the same time.

Expenditures for gasoline, heating oil, and natural gas in 1999 accounted for about $1,400 per year of total household expenditures. Price increases over the past 4 years for these residential items added about $350 per household per year, meaning that domestic energy price shocks have increased household energy bills by 25 percent.

The driving motivator of these energy price shocks is the monopolistic energy industry. The industry has been concentrated in the hands of a few vertically integrated companies that have shut down refineries, reduced stocks, and exploited markets when they became tight. Since these price

increases were about padding the corporate bottom line, not about responding to increased costs, petroleum industry profits have risen to record highs over the period. Domestic petroleum companies have stuck U.S. gasoline and natural gas consumers with about, get this: $250 billion in price hikes since January 2000, resulting in an after-tax windfall profit of $50 billion to $80 billion to the industry.

So the next time someone goes to the pump, they have to understand they are subsidizing windfall profits for the oil companies, and all of these families in America that are suffering from the high cost of gasoline, the Sanders amendment is the solution to do something about it.

Now, this amendment will suspend oil deliveries to the Strategic Petroleum Reserve effective to March of 2004 when several Members of Congress wrote to President Bush calling for a halt of oil deliveries into the Strategic Petroleum Reserve. The amendment would prohibit the use of taxpayer dollars to maintain more than 647 million barrels of oil. We can always swap it out if there is a problem with the numbers.

At the present time, there is 661.4 million barrels of oil in that Strategic Petroleum Reserve, and the Bush administration is to fill the Strategic Petroleum Reserve to its capacity of 700 million barrels, regardless of price, and that is the policy that is keeping the prices higher. At a time when the price of gas still averages about $2 a gallon, it simply does not make any sense to continue to put more oil into that Strategic Petroleum Reserve. This is the policy that keeps gas prices unnecessarily high, and my constituents in Ohio and all across the country, they are paying the price at the pump.

The quickest method to reduce gas prices is to send a clear message to the oil industry that the Federal Government is not going to tolerate further price increases and profiteering. The Sanders amendment will do that.

Further profiteering is only going to hurt our weak economy. It is time for Congress to protect our constituents' pocketbooks and improve the economy. We must prod the oil companies into compliance rather than subsidize them.

This amendment is good for consumers, it is good for this country, it is good to stop the rising inflation that the increased costs of gasoline is contributing to, and it maintains an adequate level of crude oil in Federal stockpiles. It is time for Congress to take action on this, and again, this is a bipartisan amendment. People on both sides of the aisle can support it. I represent Republicans as well as Democrats, and I am proud to say that, and I am proud to say that people, both Democrats and Republicans, I believe, in my district support this amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I hate to interrupt such a fine speech with any logic.

The CHAIRMAN pro tempore (Mr. BASS). Does the gentleman seek time in opposition?

Mr. TAYLOR of North Carolina. I do, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the gentleman from North Carolina being recognized for a second time?

Mr. KUCINICH. Mr. Chairman, I have no objection, provided that the gentleman wants to share that time.

The CHAIRMAN pro tempore. Is the gentleman from Ohio reserving the right to object?

Mr. TAYLOR of North Carolina. Mr. Chairman, I withdraw my request.

Mr. DICKS. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from North Carolina (Chairman TAYLOR).

Mr. TAYLOR of North Carolina. Mr. Chairman, there is a lot of hysterical comments on the floor, and I share the gentleman's concern about high gas prices. The unfortunate thing is we are not spending any money now to buy gas. No funds are being expended here. We expect the next 39 million barrels will come in as royalties. We cannot sell the oil with this amendment. This merely says no funds in this act shall be used to maintain more than 647 billion barrels of crude oil in the Strategic Petroleum Reserve.

Now, if it ever gets back down to 647, and that would take a complicated movement to get it back down there, then the gentleman's amendment might apply. But I do not see that it does what he is intending it to do, and certainly it is not going to lower the price of gas.

Mr. DICKS. Mr. Chairman, reclaiming my time, I am delighted to yield to the gentleman from Vermont (Mr. SANDERS), the sponsor of the amendment, to respond to the chairman.

Mr. SANDERS. Mr. Chairman, I thank my friend for yielding, and I am not quite sure I understand the chairman's confusion on this issue.

The gentleman is correct. No money would go to maintain the SPR unless oil was released, and that certainly can be done, as the gentleman from Ohio (Mr. KUCINICH) indicated, through a swap. That is not a difficult process.

What we are saying very clearly is that millions of working people are paying through the nose in high gas prices; it is imperative that this Congress act. We have had Republican presidents, Democratic presidents, Republican Members of the House, Democratic, Independent Members of this House, who have shown sympathy to this idea. It is a simple idea. It could lower the price of gas, and we should go forward on it. It is a totally practical approach.

Mr. DICKS. Mr. Chairman, reclaiming my time, it is my understanding that the Department of Energy does have the authority to do something of this nature. I think Secretary Richardson did this at a previous point in time, and I assume that the theory of the gentleman's amendment is that since we are at 661 million barrels inside the SPR and under his amendment we can only be at 647 million barrels, that they would then have to sell the difference between those two numbers into the market.

Now, I think the Department of Energy has the authority to do this. Maybe it would be best for us to talk to the Secretary of Energy about this and see if we cannot get him to do it. It might be a lot faster and help in a more timely way than a bill that will not probably be enacted until October 1.

Mr. STEARNS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have to tell my colleagues that this is a very interesting amendment and perhaps I would use the word ''clever,'' because it is really a back-door attempt to change our energy policy, to really take it away from the President of the United States and to use it so that we can use the reserves from the Strategic Petroleum Reserve to manipulate crude oil prices for political gain, I think.

I really think the premise of the amendment is false. It says that this amendment can reduce gasoline prices by 10 to 25 cents per gallon. We asked the Department of Energy if they agreed, and they said no. The effect would be between zero and 1 cent per gallon.

Now, all of my colleagues remember when President Clinton did this. What was the effect of what President Clinton did? What, 1 or 2 cents? And I think the people who support this amendment will agree. It is going to have a very negligible effect.

The world is a much more dangerous place than it was previously. Terrorists have attacked oil installations in Saudi Arabia. We have seen that recently. The bulk of Iraq's exports were shut down on Tuesday by terrorist attacks on two oil pipelines in southern Iraq. So, I say to my colleagues, we need to preserve what we have in the Strategic Petroleum Reserve in the event, in the event of a true supply emergency, and I think this is more of a political emergency.

If we want to truly lower gasoline prices, we need to encourage the Senate to pass H.R. 4517, the United States Refinery Revitalization Act of 2004. In this House we passed it by almost 240 votes. When a vote was on the floor to really do something about gasoline prices, the cosponsors of this amendment said no.

No individual should cash in his life insurance policy to pay his reoccurring, reoccurring monthly expenses. Neither should we, I say to my colleagues, the Federal Government cash in its oil insurance policy to make a one-time payment on a reoccurring expense; namely, gasoline prices.

□ 1600

My colleagues, we have seen how turbulent the world has become in just the

past few months. We should have the foresight to see how much more so the world could become in the coming months, and we have had threats already presented to us. We need to be sure and to ensure that the Strategic Petroleum Reserve is there in the case of these emergencies. It is simply an emergency policy. We do not want to go and deplete it because of high gasoline prices. We should attack it in a way which is meaningful. The energy bill that we passed out of the House of Representatives, ask the Senate to do it.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we heard this was a back-door attempt to change our energy policy. Well, we have a failing energy policy in the United States with the oil men in the White House, and it would be good to change it; but I would say actually this is a front-door attempt to lower the price of gasoline for American consumers and American business. Every penny costs American consumers a billion dollars at the pump. Every penny costs the aviation industry a billion dollars in profits.

So if it only came down 2 cents, like the gentleman says, well, that is 2 billion bucks for the aviation industry, a couple billion bucks in the pockets of American consumers, but maybe that is chump change around here. I do not think so. That is real money to the American people.

But beyond that, it is kind of interesting to say if George Bush took action and released some oil, it would only drop a penny or two, I guess maybe because he would work with the industry to keep the price up, because when President Clinton ordered the release of 30 million barrels of crude oil from the Strategic Petroleum Reserve in 2000, the price of gas fell by 14 cents. Well, maybe that is just because he is a Democrat. That took 2 weeks.

Well, then, let us go back to President George H.W. Bush. He released 13, only 13 million barrels of crude oil, about what we are talking about here, from the SPRO in 1991, and crude oil prices dropped by $10 per barrel. So there are precedents. This is not insignificant. We are not talking about pennies, but even pennies would bring relief to Americans. The last time I drove to the bagel store near my house in east Springfield, I went by a gas station, and the price changed between the time I went in there to the BuyMart store and went back home. It went up. Let us bring it down. Let us change the direction.

Now, a number of us have asked the President to file a World Trade Organization complaint. We passed legislation that costs $154 billion just before this because of a complaint filed against the United States at the World Trade Organization. Now, I do not support the WTO and I voted against it; but, hey, we are in it, this President loves it, and we are passing legislation to comply with it.

Why will he not file a complaint against the eight member nations of OPEC? Eight of them are in the World Trade Organization. They are violating the World Trade Organization every day. They are colluding to restrict supply and drive up the price of oil, but this President will do nothing. He will not file that complaint. I have written to him twice. They will not file the complaint.

I guess it is too much to ask this administration to take positive action to help bring down the price of oil. If they cannot take positive action, maybe a little bit of inaction. Stop filling the Strategic Petroleum Reserve. I hope I do not get anybody fired, because this administration does not like people to say reasonable things that go against their stubborn beliefs, but the staff at the Strategic Petroleum Reserve recommended 2 years ago that we stop filling the reserve because ''Commercial inventories are low, retail prices are high and economic growth is slow. The government should avoid acquiring oil for the reserve under these circumstances.''

We are not talking about doing away with the reserve and the insurance policy. We are talking about taking prudent steps at a time when we are paying sky-high prices for oil to show the world that we are going to protect our consumers and stop the price gouging, but I guess that is too much to ask of the oil men down at the White House.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I just wanted to mention for the record that if this amendment passes, the Strategic Petroleum Reserve would have 93 percent of its capacity, and we could fill it as soon as the oil prices went down. And, again, when people talk about concern about national security, we are all concerned. Let me remind that 53 Members of this House urged the President to do this, including 39 Republicans. The Senate passed a bipartisan resolution.

So as the gentleman from Oregon (Mr. DEFAZIO) has indicated, the issue is will we finally stand up for the American consumer and lower the cost of gasoline.

Mr. DEFAZIO. Mr. Chairman, could the Strategic Petroleum Reserve be an insurance policy? Yes. And in this case, it can ensure a lower price of gasoline for American consumers and American businesses, or the lack of change in this policy and in the administration's current actions will ensure higher prices and higher profits for the industry. This vote will tell us which side of that question people come down on.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it has been interesting to listen to this discussion today and talk about why we have high prices. Someone just talked that we had a failing energy policy. Folks, this Congress has never put an energy policy on any President's desk, and I do not know that any President has asked for one till George Bush. He has begged for one. He has pleaded for one, and this Congress has not put an energy policy on his desk. That is why we are in trouble. Even with an energy policy, it is going to be years before we have much to say about our future.

We are dependent today because we do not have a plan; we do not have a policy on foreign parts of the world who dictate. Think, just a few months ago, one of our supposed friends said when oil was $32 a barrel, they were going to raise the price. No. They were going to reduce how much they were sending. Historically when it got over $30, they put more oil in, and the price would come down a little bit, but at $32 they took oil out, and prices sky-rocketed within a couple of months to $42.

Folks, we are vulnerable to countries who have little long-term interest in us, little long-term commitment to us, and that is why it has never been more important for us to have a stockpile. SPRO was not designed for price control. The strategic oil reserve is for us in case of war, in case of something that would interrupt our supply of oil. We are now 58 percent dependent on imports from unstable parts of the world.

We have never had a time when our oil supply, they are looking on how they can disrupt our oil supply every day, whether it is blow up tankers, whether it is blow up pipelines. Iraq had serious problems just this week. It was going to stop supply, a tremendous amount of supply from Iraq.

We are vulnerable, and if we would have one of these countries taken over by a dissident group, we would have not $40 oil, not $50 oil, but possibly $60 oil, which would crush our economy. We have to look at the big picture here, but all of those pleading for price control, let us talk about an energy policy. I wish you would join us in saying let us put an energy policy on the President's desk so he can sign it so this country can get on a plan of action where we are not dependent on foreign oil.

The natural gas issue right beside us is crushing us economically because we cannot import natural gas like we import oil. We have $6-and-something gas going into the ground right now that is going to be coming out next winter. Last year at this time we put natural gas in the ground at $4.60, and that was a record. This year it is in excess of $6. When you combine those two, greater pressure on oil because of high gas prices. They were related. Last winter, school districts, hospitals who had the ability to divert, diverted from natural gases because of high prices and used more oil, increasing our need to import oil from foreign countries.

We talk about our oil companies control, this country has little control of oil. We do not have it. We are only producing 42 percent of the oil we use. We

produce 20 million barrels a day out of the 80 million; and we have China, we have India who are now becoming huge users. The countries that took care of us have lots of people knocking on their door now saying we need oil. They have other people who are going to use huge amounts of oil. There are those who predict China will use more oil than us in 5 years. I do not know that that is correct. I have not researched that, but I have heard that stated.

The most important thing we can do here in this Congress is give the President, quit our bickering and our partisan fighting and get an energy policy on the President's desk that he can sign that will help us wean ourselves off foreign oil, get us out of oil for transportation down the road and other measures to move our vehicles. We have to have a plan of action. We are becoming more dependent every day, and we are dependent on less and less stable parts of the world for oil.

The energy issue, when you combine oil prices and natural gas prices, has the potential to stall the economy of this country. And if we do not protect SPRO and have it in case of an interruption, disruption, $50 and $60 oil will shut the economy down is what we are talking about.

Mr. GEORGE MILLER of California. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, to listen to the other side, you would think that the margin between chaos and a healthy economy is 7 percent in the Strategic Petroleum Reserve. The matter is the gentleman from Vermont (Mr. SANDERS) has a very rational amendment.

You have a time when families are being stretched by high oil prices, much of it I guess because of the war in Iraq, at a time when people when we are trying to get the economy moving again, we are trying to hire people, we have industries under incredible pressure because of high energy prices, the transportation industry and the trucking industry and the airline industry. It has been estimated that of the middle class tax cuts, half of it has been taken back in higher energy prices.

The gentleman from Vermont (Mr. SANDERS) says just take the artificial customer out of the marketplace, which is the Government of the United States. We have filled about 93 percent of the SPRO. We are going to pause right now because there is turmoil in these markets and we are going to give the American economy and American families a break, a breather from $2.50, $2.70 gasoline that we are paying in the San Francisco Bay area. I represent five major oil refineries. Yes, they are working to capacity. But the fact of the matter is, many economists have suggested that if this amendment would pass, people would get a reduction of 10, 15, or 20 cents. Maybe that is not a lot to Members of Congress, but it is an awful lot to people who are driving long distances in northern California to commute to work. The cost of going to work has increased dramatically for families in this country.

This amendment says this is just one of the few things that we can do. There is a lot of discussion that somehow if we had the energy policy that the Republicans were pushing last year and could not get passed, although they controlled the Senate, they controlled the House, they controlled the White House, they could not get it passed. Why could they not get it passed? Because when the day came to pass it finally at the end of the session in the Senate, they realized it was not an energy policy. It was a tax giveaway for a lot of old, tired ideas about the petroleum economy of the past and had very little about the future.

Then they decided, and the majority leader here decided, he was going to protect MTBE, the polluters that are poisoning the wells of small communities all over the country, all over the country. He has decided that those companies are going to be protected from lawsuits from communities that are trying to clean up and recover their domestic drinking water supply, that that was part of the energy bill. Had that not happened, you would have had an energy bill last year, but you thought the MTBE polluters were more important than an energy policy.

It is also interesting when the Senate took a second look at it, they said these $35 billion in tax bills that are paid for by the deficit, we cannot afford it; and they started ripping them out, and they reduced it to 14 billion. And now there is a lot of people on the other side that are upset because they lost their tax cuts in that legislation.

It was never about energy. It was about paying old debts to people that were very supportive in the campaign and had some old, tired ideas that they should not have to pay royalties and they should not have to pay taxes on their earnings in the energy industry. It was not going to produce any new oil. It was not going to produce any new energy.

Yes, we are dependent on foreign oil, and we will continue to be dependent on foreign oil for as far as we can see because we cannot produce our way out of that problem. We simply cannot produce our way out either by natural gas or by oil or even by coal for the needs that we have for that energy.

□ 1615

Now we can change our usage. We can engage in conservation renewables, but that is not what that energy bill was about, and that energy bill did not pass. So we have an option here, to do the one thing that we can do and we can do it immediately, and it is under our control and that is to simply stop filling the SPR, go back to the March levels when these energy prices started running up, and give the American people and businesses a break, and let them recover and to assimilate these costs.

Yes, we would love it that it would drop by 25 cents, but if it only drops 12 cents or 10 cents or 15 cents, that is important. It is certainly important to the business in this country and to the families we have kept our faith with the idea of filling the SPR because we are at the 93 percent level.

So I would urge that people would consider supporting this amendment. I think it is important for our constituents, it is important for their families, it is important for their budgets. We are talking about people in the middle class who are being squeezed.

This is not the only place. It is not only high energy costs. They have seen their deductibles and copayments on health care go up. They have seen their cable rates go up, their utility rates go up, the cost of their kids' college education. This middle class is being squeezed. We can provide some relief here with the Sanders amendment and lower the energy costs to these families in America, and we ought do it.

Mr. HALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, you can use all the figures you want and make all the projections that you want to make and you just cannot shake this down as anything other than an effort to misuse the purposes for which SPR was set up. I think we need to go back many, many years ago when Congress voted it. The President has not declared an emergency as required. President Clinton did declare an emergency. Secretary Richardson did release at Clinton's request. It did little effect. It had very little effect. It had very little help. It was just a blip on the market.

Actually, we are in a situation here where attempts are made to stop putting into SPR, and that is to save maybe a penny a gallon or maybe less than a penny a gallon. It just does not make any sense at all. Yet at a time when we cannot pass ANWR, we cannot pass drilling up there that could have some real consequential effect on whether or not the gas prices go up or down and make a great defense on whether or not youngsters have to cross an ocean to take energy away from someone who has it, when we have none that we can mine, now that does not make any sense. We have a chance to save for this country for this generation to cross oceans and take away energy from people who have and save our children from having to fight a war. Give them the chance to say what profession, what business am I going into rather than what branch of service. We cannot pass ANWR. We cannot pass the Ultra D. We are two votes away, for political reasons, from passing an energy bill.

I just want to say this amendment seeks to suspend deliveries to the Strategic Petroleum Reserve to the 2004 cap and to prohibit the use of taxpayer money to maintain more than 647 million barrels of oil in SPR. That means with 661.4 million barrels in SPR now, there must be a release of 14.4 million barrels out of SPR.

By the time the fiscal year 2005 begins October 1, 2004, the SPR will have over 670 million barrels in SPR. This amendment will force the immediate sell-off of 23 million barrels, causing extreme volatility in the market which could ultimately lead to grave shortages as the markets come to rely on the government to provide supply. Of course, the government only has a limited supply for a country that uses 20 million barrels of crude oil every day.

This amendment is merely a backdoor attempt to change the Energy Policy and Conservation Act to make the SPR a means by which the Federal Government can manipulate crude oil supply for political gain instead of using the SPR as an insurance policy, which it was intended to be used for and then only in the event of a ''severe energy supply interruption,'' as set forth in the existing law. That just has not happened.

As the gentleman from Florida (Mr. STEARNS) stated here just a few moments ago, the premise of the amendment is just absolutely bogus and false. It says that this amendment can reduce gasoline prices by 10 to 25 cents per gallon. The Department of Energy says that the effect would be between zero and 1 percent per gallon.

The world is at a more dangerous place than it was back in March of 2004. Terrorists have attacked oil installations in Saudi Arabia. The bulk of Iraq's exports were shut down on just Tuesday of this week by terrorist attacks on two oil pipelines in southern Iraq. We need to preserve what we have in SPR in the event of a true emergency. That is what it was intended for. That is what it was set up for. That is what this Congress based it on, not a political emergency.

If we want to truly lower gasoline prices, we need to encourage the Senate to pass H.R. 4517, the United States Refinery Revitalization Act of 2004 which the House passed by a vote of 239 to 192. When a vote was on the floor to really do something about gasoline prices, cosponsors of this amendment, most of them voted ''no.''

Now, no individual, as the gentleman from Florida (Mr. STEARNS), should cash in a life insurance policy to pay their recurring monthly expenses. Neither should the Federal Government cash in an oil insurance policy to simply make a one-time payment on a recurring expense, namely, gasoline prices.

Having seen how turbulent the world has become in just the past few months, we should have the foresight to see how much more so the world could become in the coming months. We need to use SPR for what Congress really intended it to be, an insurance policy in the event of a severe energy supply interruption. We have not had that.

Mr. HINCHEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I have understood the arguments that have emanated from the other side of the aisle accurately, they seem to suggest that we should not be doing anything; that is, the government of the United States, should not be doing anything to help consumers, taxpayers, at this moment when they are paying record prices for gasoline out in the marketplace.

Well, that does not make any sense. The gentleman from Vermont (Mr. SANDERS) has offered an opportunity to do something which will hold the price of gasoline and drive it down 10, 15, 20 cents a gallon. That makes a lot of sense. Any time a person can save a dollar or two or three on a tank of gas, that means another quart of milk or another loaf of bread for some people who are having a hard time in this country making things work.

The argument that the government should not do anything to try to regulate the price of oil is absurd. Let me just take my colleagues back in history a little bit, not very far, just about a year or so, 15 months.

When the leadership of this House brought a resolution to the floor here authorizing the President of the United States to go to war in Iraq, many of us said that there would be terrible consequences and that among those consequences would be this, that that war would destabilize the Middle East and the destabilization of the Middle East would drive up the price of oil and that the American taxpayer/consumer would have to pay more for gasoline and more for heating oil as a result of that war resolution. What do my colleagues know? That is exactly what has happened. The destabilization of the Middle East has driven up the price of gasoline and the price of heating oil.

Now we are told we should not do anything about it. What are we doing in Iraq now? This government is asking the American taxpayer to subsidize the price of gasoline in Iraq. Iraqis are paying 5 cents a gallon. We are paying $500 million every quarter to subsidize the price of that gasoline at 5 cents a gallon, $2 billion a year. That comes out of the same pocket, the people who are paying record prices for gasoline today. That is a consequence of the policies of this administration and the majority party in this House.

When Halliburton can buy gasoline for 71 cents a gallon and sell it to the Army Corps of Engineers for more than $2.10 a gallon, three times the price they are paying for it, and the government of the United States, the leadership in the administration and here in the Congress, turns a blind eye to it, that drives up the price of gasoline for every American consumer and taxpayer as well. When the administration engages in economic policies which deflate the value of the dollar by 30 percent, that means that everything we buy with that dollar on the international market costs more.

So, as a result of the economic policies of this administration, which have deflated the dollar by almost one-third, the American taxpayer-consumer is paying more for gasoline and fuel oil.

These are things that this administration, the Bush administration and the leadership here in the Congress, have done to regulate the price of oil. Unfortunately, none of that has been to drive down the price of gasoline or the price of heating oil, but every bit of it has been to drive up the price of gasoline and the price of heating oil.

What the gentleman from Vermont (Mr. SANDERS) is trying to do is just reverse that a little bit. Let us support him today.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, I heard a moment ago an estimate from the DOE that this amendment would lower the cost of gas by one cent. Well, let me tell my colleagues that Goldman Sachs has studies which suggests that it would be 10 to 25 cents. They are the largest crude oil trader in the world, 10 to 25 cents a gallon.

People say this is a new and radical idea. It is not a new and radical idea. George Bush, the first, did it; Bill Clinton did it; and in both instances, it was successful. It drove down the price of gas that consumers were purchasing.

This is an amendment and a concept supported by Republicans and Democrats.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment, as modified, offered by the gentleman from Vermont (Mr. SANDERS).

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

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to clause 8 of rule XVIII, further proceedings on the amendment offered by the gentleman from Vermont will be postponed.

Mr. FALEOMAVAEGA. Mr. Chairman, I move to strike the last word.

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

Mr. FALEOMAVAEGA. Mr. Chairman, I ask the distinguished chairman of our Subcommittee on Interior and Related Agencies appropriations for a colloquy or dialogue, the chairman from North Carolina.

It is my understanding the Office of Insular Affairs of the Department of Interior has proposed a new competitive grant formula for capital improvement grants whereby funding can be increased or reduced depending upon each Territory's performance in meeting proposed criteria for financial management and accountability. Committee report also indicates that the Secretary may use discretion to modify the funding formula to address court-ordered infrastructure projects.

For the chairman's information, my district does not have a court order pending and we also have complied with a separate memorandum of understanding to put a fiscal reform plan in

place. Our fiscal reform plan has been submitted and accepted by the Department of the Interior.

To my knowledge, the Office of Insular Affairs has not consulted with the territorial delegates on this matter nor with our territorial governments regarding this proposal.

I express my deepest disappointment in the OIA's failure to consult with the territorial delegates on matters which seriously affect the constituents we represent, and while I can appreciate the territorial governments need to be fiscally responsible, we cannot and must not excuse OIA's disregard for the democratic process. I kind of like to think we are a co-equal branch of government in the way we operate.

Finally, I would like to work sincerely with the chairman and ranking member to include language in the conference report to direct the Office of Insular Affairs to consult with the delegates and the territorial governments for purposes of refining the criteria that will be used before this proposal goes into effect.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I appreciate the gentleman's statement, and I will work with him, and we will try to get the Interior Department's efforts to allocate construction funds based on financial performance, and I will be glad to work with the gentleman.

Mr. FALEOMAVAEGA. I thank the chairman and ranking member for their assistance to resolve this matter.

Ms. BORDALLO. Mr. Chairman, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentlewoman from Guam.

Ms. BORDALLO. Mr. Chairman, I thank my friend, the gentleman from American Samoa (Mr. FALEOMAVAEGA) for yielding.

As has been stated, the Office of Insular Affairs has proposed a new competitive grant formula for capital improvement grants that derive from a reprogramming of funds authorized under Public Law 94–241. I commend the Department for addressing the capital infrastructure needs of the Territories and in proposing a formula whereby grants can be increased or reduced depending upon each Territory's performance through evaluation on proposed criteria for financial management and improved accountability.

Mr. Chairman, I note that the committee report on this provision indicates the Secretary may use discretion to modify the funding formula to address appropriately court-ordered infrastructure projects in the respective Territories.

□ 1630

In the case of Guam, I would note for the record that the government of Guam is under a consent order for water and wastewater infrastructure improvements in the amount of $200 million to comply with the Clean Water Act and also under a second court order to close the Ordot landfill at a cost of $30 million to remedy additional violations of the Clean Water Act.

Given these circumstances, is it the committee's intent that the Secretary should consider these court orders in determining allocations for the infrastructure grants?

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentlewoman from Guam for raising this issue. The committee encourages the Office of Insular Affairs to take into account financial accountability performance. The committee also wants the OIA to consider the capital infrastructure needs mandated by Federal court orders in the Territories. This is important to Guam and to other Territories and to the committee.

Mr. SIMPSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would ask that the gentleman from North Carolina (Chairman TAYLOR) engage me in a colloquy.

Mr. Chairman, I do not have an amendment to offer at this time, but since this bill has provisions dealing with mineral leasing and permits, I want to make an observation about the administration's budget request and the fact that the Office of Management and Budget is increasing the Federal maintenance fees for hardrock mining claims from $100 to $126 per claim based on a cost-of-living adjustment from 1993 to 2004.

While the provision allowing them to do this is in current law, neither the Forest Service nor the Bureau of Land Management, the Federal agencies that oversee and approve mining operations on Federal lands, maintain a tracking system capable of determining how long a mining permit has been pending. This simple data management tool is necessary to more accurately track these permits. These agencies need a system that does more than merely determine on a yearly basis the number of plans and notices that are submitted and approved each year. These agencies need a system that lets the department, Congress, and the public know how long these applications are pending. Such a system should alert these agencies to where additional attention or resources are needed.

Delays in processing mining permits have impacts far beyond any particular mining project. A ripple effect occurs. Delays impact investment, lack of investment results in less exploration, less exploration results in less development of domestic resources, less development of domestic resources leads to greater reliance on foreign sources, greater reliance on foreign sources impacts our economic and national security, not to mention loss of jobs and economic impact on local communities.

The U.S. mining industry is modern, high-tech and environmentally responsible and overall has a solid record of compliance with the world's more rigorous State, local, and Federal laws and regulations. It should not take 4 to 10 years to obtain the permits necessary to commence operations. The government needs to find ways to improve permitting and expediting mining permits before it increases fees for holding the land involved in these permits.

Mr. Chairman, I hope that this issue can be addressed in the near future.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. SIMPSON. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, the gentleman from Idaho (Mr. SIMPSON) is correct in his assessment that a permit tracking system is needed, and we will work with the gentleman on this issue in the future and hope we can succeed.

AMENDMENT NO. 4 OFFERED BY MR. HOLT

Mr. HOLT. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. BASS). The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. HOLT:

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

TITLE V—ADDITIONAL GENERAL PROVISIONS

SEC. 501. None of the funds made available in this Act may be used to permit recreational snowmobile use in Yellowstone National Park, the John D. Rockefeller Jr. Memorial Parkway, and Grand Teton National Park.

Mr. HOLT. Mr. Chairman, I am pleased to join with the gentleman from Connecticut (Mr. SHAYS), the gentleman from West Virginia (Mr. RAHALL) and the gentleman from Illinois (Mr. JOHNSON) to offer an amendment to protect the world's first national park and a wonderful American treasure, Yellowstone.

Our amendment completes the phaseout originally implemented by the National Park Service in 2001 of snowmobiles in Yellowstone and Grand Teton National Parks. The phaseout was delayed and then reversed over the course of the past 3 years, only to be reinstated for most of last winter under court order. The original decision to phase out snowmobiles in favor of snowcoaches was not an arbitrary decision or some kind of gratuitous attack on snowmobiles. It was based on 10 years of careful study, after which the National Park Service implemented a rule in January 2001 calling for a 2-year phaseout.

After President Bush entered the White House, the National Park Service delayed implementation of the phaseout and initiated yet another study of winter use in Yellowstone at a

cost of $2.4 million to taxpayers. This study, no surprise, completed in February 2003, came to the same conclusion, that phasing out snowmobiles in favor of snowcoaches would be the best thing for Yellowstone Park, for the park, for the visitors, for the employees, for the wildlife.

This is about protecting our natural treasures. It is not primarily about snowmobiles. It is that snowmobiles have been determined to be incompatible with the preservation of Yellowstone Park. In the early days of Yellowstone Park, employees and visitors engaged in all sorts of behavior which was not thought to be harmful at that time, but it jeopardized the ability of future generations to see the natural splendor. Park employees used to throw trash down the geysers or use them for laundry, permanently plugging up the geothermal features. The National Park Service used to encourage visitors to feed the bears, wolves were openly hunted across Yellowstone until they were extinct. Visitors were allowed to chip off chunks of rock from geysers. But it was recognized that this behavior was not compatible with the purpose of the park, the creation of Park Service to preserve these parks for the enjoyment of current and future generations.

As the Park Service learned more about the unique environment of Yellowstone, they ended these destructive practices. Snowmobiling in the park is no different. The Park Service has studied the issue repeatedly and comprehensively and found that continued use of snowmobiles is incompatible with the mission as laid out in the legislation creating the parks, to conserve the scenery and the natural and historic objects, the wildlife in the parks, and to provide for the enjoyment of the same and such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

We are not here to disparage the snowmobile industry or those who ride snowmobiles, I among them. We are trying to make the point that Yellowstone National Park is a unique environment, a precious national treasure that deserves an extra level of protection. In fact, the unique characteristics of Yellowstone's winter environment actually magnify the harmful effects of snowmobiles, making their impact really worse than in other areas of the country.

Sound travels further in winter. Snowmobile noise is audible across many popular sections of the park, as I discovered when I was there in February last year. Even the newer snowmobiles which were supposed to meet strict new noise and emission standards were found to actually emit more because the snowmobile industry has souped them up. They are higher horsepower. So, in fact, even though the four-stroke engine offers some advantages over a two-stroke engine, what is being purchased, sold and used is a more powerful snowmobile that is emitting more.

The simple fact is that snowmobiles that enter Yellowstone and Grand Teton are only a tiny portion of the $7 billion snowmobile industry. As the industry reacts and produces more powerful snowmobiles, it is difficult to make them quieter and cleaner. And in fact, EPA tests found that the 2004 four-stroke models was actually emitting more than the 2002 models.

We have no intention of cutting off motorized access to the parks. The original snowmobile phaseout encouraged the purchase and deployment of snowcoaches.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey (Mr. HOLT) has expired.

(On request of Mr. DICKS, and by unanimous consent, Mr. HOLT was allowed to proceed for 2 additional minutes.)

Mr. HOLT. Mr. Chairman, there are 400 miles of snowmobile trails immediately adjacent to Yellowstone, thousands of miles of snowmobile trails, some of which I have traveled outside the park in Idaho, Wyoming, Montana, and 130,000 of snowmobile trails across the country. We are talking about phasing out snowmobile use on 250 miles. This is not going to hurt the industry. It is not going to hurt the tourism industry and it is not going to hurt the snowmobile manufacturing industry.

It is true if you are snowmobiling on these trails outside of Yellowstone Park, you will not see Old Faithful, but we are hopeful if we remove the snowmobile smog, others will be able to see Old Faithful when they travel in by snowcoach.

Let me point out that many former National Park officials who worked under both Democratic and Republican administrations have expressed their displeasure. Last month they wrote to Secretary Norton saying to uphold the founding principle of our national parks, stewardship on behalf of all visitors and future generations, the snowmobile should be phased out. This was signed by the Park Service Director who served from 1964–1972; the Assistant Secretary of the Interior who served between 1971 and 1976; the National Park Service Director who served between 1980 and 1985; the National Park Service Deputy Director who served between 1985 and 1989; the Park Service Director who served between 1993 and 1997; the Park Service Director who served between 1997 and 2001; the Yellowstone Park Superintendent who served between 1983 and 1994; and the Yellowstone Park Superintendent who served between 1994 and 2001. They all say proceed with the rule that phases out snowmobile use on these 250 miles of roads in Yellowstone Park. That is what we are asking for today. I ask support for my amendment.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as the gentleman knows, this is a complicated issue. With two Federal courts dueling, one ruling that the National Park Service's 2003 plan was invalid and the other that enjoined the plan of the Clinton administration. Caught in the middle are the local business people that rely on winter use and the visitors who 90 percent prefer the use of snowmobiles to access during the winter in Yellowstone.

Together the courts have found that the environmental studies in place are flawed and must be redone. This will take 2 to 3 years. In the meantime, to ensure snowmobile use this winter, the National Park Service has initiated a temporary winter use plan to allow for their use while the long-term study is being completed. Now there is a whole plethora of rules and regulations, but the committee supports the National Park's efforts to ensure continued winter use that balances visitors in the park and resource protection until the courts can get back to it again.

Mr. PETERSON of Minnesota. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today to oppose this amendment and correct some of the erroneous statements which have already been made regarding this issue.

My district in Minnesota is the home of Arctic Cat and Polaris which produce American-made snowmobiles. I have about 4,000 people in my district which work at these two plants, and there are probably another 2,000 to 3,000 jobs directly related, manufacturing plants which supply pulleys and sprockets and precision equipment. This is a big industry and a big employer in my district.

They have really gone out of their way to improve these machines. Artic Cat, for example, started in 1996 developing the four-stroke machine. These companies spent millions of dollars developing this technology so we could have cleaner and quieter machines operating in different parts of the country.

The gentleman from New Jersey (Mr. HOLT) was saying these machines are actually louder or pollute more than the machines that were developed in 1992. Well, that is absolutely not the case at all. I have a letter here from the National Park Service, Yellowstone Park Director Suzanne Lewis printed on their stationery which commends Polaris and Arctic Cat for the work that they have done in developing these new technologies. They have a number of machines that are now well below the requirements that were placed on these manufacturers and these machines by the National Park Service.

□ 1645

In the area of hydrocarbons, they had to meet less than 15 grams per mile, or hour, I guess it is. The 2002 Arctic Cat was not 15, it was 6.2. That was brought down to 5.62 in 2004. In the case of carbon monoxide, they had a level of 120.

The original machines that were certified were 79.95 in 2002. That is now down to 9.2. They have made significant progress in these areas. On the sound emissions, they have a 73 decibel rating and those are also below the amounts that were required by the National Park Service.

If anybody wants to see this, this is information that is put out on the Yellowstone National Park's stationery by the park manager, and these companies have not only met the standards; they have gone well below the standards. If anybody has ever ridden one of these snowmobiles or been around one of them, when you turn it on, you cannot even hear it run. When it is out there operating, if you are riding with somebody else, you can talk back and forth. They are very quiet. They not only improve the situation in Yellowstone Park; they also improve the situation in any other place in the United States where they are operating these machines.

Some people have suggested that we ought to have snowcoaches as an alternative to these snowmobiles. The snowcoaches actually put out more pollution per the number of riders that can go in one of these snowcoaches that would be put out by the equivalent amount of machines that could haul the same number of people using a regular snowmobile. And if you have ever been out to the park and been able to participate in this, it is a wonderful experience. I think it is much better to see the park in the wintertime than it is in the summer because it is a lot more beautiful. But if you are in a snowcoach, it is not that great of an experience. The windows all steam up and really the only time you can see anything is when they stop and let you out. So it really destroys the experience.

People need to understand that these machines are on the same roads that we drive with the cars that we use in the summertime. They have speed limits. They have now limited the amount of machines that can go into the park. This compromise that they have come up with makes sense, and it still allows us to use the parks in the way that we intended and that is for the American people to be able to enjoy the beauty of our national parks. Some of the people that are interested in solving this problem, if they really are concerned about pollution, we should think about eliminating cars in the national parks because they produce a lot more pollution than these machines.

Mrs. CUBIN. Mr. Chairman, I move to strike the requisite number of words.

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

Mrs. CUBIN. Mr. Chairman, Yellowstone was established in 1872 with the dual purpose of protecting the unique resources in that area and providing for the American public to be able to enjoy that area. Both Yellowstone and Grand Teton National Park have been well managed through the years to conserve the land and to provide for the public's use and enjoyment. No damage has ever been done to the parks by snowmobiling.

I have to take exception with my friend from New Jersey's remarks that the EPA stated that the current snowmobiles are more polluting and noisier than the old because they are more powerful. After he told me that yesterday, I contacted the EPA. I have here with me the study that the EPA did. As a matter of fact, the current policy, the Bush policy, allows four-stroke engines to be in the park because their air emissions are 90 percent lower than the two stroke and the noise is 50 percent less than the two stroke. The Bush administration's policy is to allow four-stroke engines and limit the number of snowmobiles that can go into the park.

I want to repeat: snowmobiles have never caused a violation of our current environmental laws, and the air quality will only improve under the Bush administration guidelines. As I said earlier, the new four-stroke engines are cleaner; and as my friend from Minnesota stated, they are quieter as well. By the way, snowmobiles can only go on the roads that are already plowed. I think people have the idea that snow machines are just going all over the park in all directions. That is not true. The only place they go are on the roads, as we see here, that are already plowed.

The new supplemental environmental impact statement, which I just discussed which came to the conclusion that four-stroke engines could be used and to limit the number, grew out of countless hours of input from the National Park Service, from the Environmental Protection Agency, and from all the cooperating agencies and counties and other interest groups. This was a compromise between a ban and unlimited use. It strikes a good balance to provide for continued snowmobile use while still preserving the health of our national parks and the wildlife that live there.

According to the Wyoming Department of State Parks and Cultural Resources, a ban on snowmobiles in the parks could cost Wyoming 938 jobs and $11.8 million in lost labor income a year. That might not mean much to my friend from New Jersey, but it means a lot to us. To put it in perspective, these net job losses in Wyoming would be equivalent to 67,743 lost jobs in California; 37,952 lost jobs in New York; and 12,698 lost jobs in Massachusetts. That really does make a difference.

If we ban snowmobiles, there will be two alternatives: no visitors in the winter, or snowcoaches as was said before. A snowcoach is a modified sport utility vehicle which gets from 2 to 4 miles per gallon. The emissions are much greater than the snowmobiles, even greater than the old two-stroke snowmobiles, and the noise is unbelievable. I know. I have seen them. I want my colleagues to look and see how much people interfacing with wildlife in Yellowstone National Park bothers the wildlife. Banning snowmobiles is the only way to stop this interfacing between animals and people, but obviously the animals are not upset about that and they are not upset by the snowmobiles coming around, either.

Let us be honest in this debate, and let us not pretend that preventing the use of snowmobiles will enhance the environment in Yellowstone. It simply will not. As I said, no environmental law or limit has ever been broken or exceeded by the use of snowmobiles in Yellowstone. Many of the radical environmentalists pushing for this ban would like to put all of the West into a national park. We have had a bill filed that actually does that from a Congressman from New York. I ask my colleagues to use their good sense. I ask them to allow the people of the United States of America to enjoy the resources and the God-given natural beauty that we have.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, those who are here advocating a limitation or banning of snowmobiles from Yellowstone and perhaps from other national parks are operating under what I am convinced is a misguided understanding of snowmobiling. They are probably thinking of snowmobiles as they existed 10, 15, 20 years ago, not the snowmobiles that have been developed in recent years and which meet and even exceed the stringent standards that the National Park Service has established for snowmobile use in our national parks, as in Voyagers National Park in my district and as we are talking about with Yellowstone.

Some years ago, there were 2,000 snowmobiles a day allowed in the park. Today that is 740. Fifteen years ago, they were noisier, perhaps more emissions emitted from such machines. Today it is vastly different. Snowmobile technology has vastly improved. The primary snow machine used in Yellowstone and in Voyagers has emissions 97 percent lower for particulates and 85 percent lower for carbon monoxide than machines used just even 5 years ago.

The U.S. manufacturing sector, Polaris, Arctic Cat, Bombardier, have invested millions, even tens of millions of dollars to improve the quality of their snowmobiles to operate in our national parks and elsewhere throughout the United States. The maximum grams per kilowatt hour allowed in Yellowstone, 120 for carbon monoxide; Arctic Cat emissions, 92; Polaris, 111; bombardier, 92. Technically, just on the science alone, they are well below the standards set by the National Park Service. Hydrocarbon emissions, maximum allowed in Yellowstone per kilowatt hour, 15; for Arctic Cat machines,

5.6; for Polaris, 5.4; for Bombardier, 6.12, two-thirds less than the national standard set by the National Park Service.

Noise is another argument made against snow machines. Run a hair dryer or a hair blower, that is 100 decibels. Run a lawn mower, that is 85 decibels. Run your garbage disposal in your kitchen, that is 80 decibels. Run a vacuum cleaner around your house, that is 80 decibels. Run a snowmobile. The maximum decibel level allowed in Yellowstone is 73 decibels. Arctic Cat is at 70. Polaris is at 73. Bombardier is at 72. They are at or below the level of noise standard set by the National Park Service, and they are getting better. I think that we need some common sense in this matter of access to the national parks.

Before snowmobiles, we did not really have a life in the northern tier of States, but now people are able to get out and enjoy the countryside, to travel distances out into the woods, out on the side roads and the byroads and the tote roads of logging days. In Minnesota, we have got 11 months of winter and 1 month of rough sledding. Without the snowmobile and stretch pants, we would not have a life. So do not take this away. Do not come down with this hard and fast, you cannot use this. Accept the march of technology and sensible use.

Snowmobilers are just good, ordinary citizens. Who are they? In my district, they are the men and women who work in the iron ore mines. They are the men and women who work in the retail grocery stores and in the hardware stores, the men and women who work in the pulp and paper mills. They go out to exercise themselves, to enjoy the winter that they live there for. Do not take this away from them. They are respectful of this environment. That is why they live in that north country.

Defeat this amendment.

Mr. SHERWOOD. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to this amendment which I think makes very little sense. Apparently one day someone was in Yellowstone years ago and following a bunch of two-stroke snowmobiles and the deal on a two-stroke snowmobile, they mix oil with the gasoline for the lubricating process, and it eliminates a little haze. The new machines, the four-strokes as the previous speaker said, are very efficient, they are very quiet, and they do not pollute.

□ 1700

And they do not emit that blue smoke. We are trying to eliminate 65,000 snowmobiles a year from Yellowstone when we allow 1.8 million cars to traverse the same roads. The new snowmobiles have about the same technology as the cars and emit about the same amount of hydrocarbons as the cars. So why would we eliminate 65,000 snowmobiles and allow 1.8 million cars?

We have a certain group of people in this country that seem to want to lock up our national treasures, our national parks, and cherished places and keep the public from enjoying them. Snowmobiling is a great way to enjoy the park. It is now very well controlled, and it is a way for people to get out in the wintertime and see a whole other side of these beautiful parks. Instead of going in the summer and following a travel trailer and wandering through the park and not being able to see anything, one can take their own sled and go through and enjoy the beauty of the park.

There is no reason to legislate against this. We are meddling where the Park Service has decided to make a very good compromise and take advantage of the new science and the better machines to allow something that is a very good and wise use of our natural resource.

This is a great way to enjoy the park. It is nonpolluting, it is controlled. It is not nearly as abusive of the air quality as are the normal things we do in the summer with all the cars. This is great recreation.

If we are so intent on reducing every possible amount of damage to the air, why do we not cancel baseball season or football season or at least football season in the wintertime? Because apparently that is what we are worried about. I do not think this makes a lot of sense, and I think we should rely on the Park Service to implement the regulations that they have in place with the restrictions so that people can enjoy our parks.

Mr. RADANOVICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do have five charts I would like to take. I would like to take the opportunity through the use of these charts to better understand the facts surrounding snowmobile use in Yellowstone National Park which are all based on data supplied by the National Park Service.

Mr. Chairman, my first chart is on bison populations in Yellowstone, which clearly illustrates that since the early 1960s, when snowmobile use began in the park, and to its peak in the early 1990s, the bison population has increased from 819 animals to an estimated population of about 4,200 animals. I think many would agree that this is quite a healthy population, and it would also suggest to my colleagues that cleanly groomed roads and snowmobile use has not been a hindrance to the bison reproduction rate.

My second chart, which I think is perhaps the most interesting, illustrates the number of snowmobiles that entered Yellowstone National Park in 1994, 1998, and 2003, versus the number of motor vehicles that use the park's roads in nonwinter months. Keep in mind that in wintertime the only way to access Yellowstone National Park is through snowmobiles. Vehicles enter it in the nonwinter parts of the years. As my colleagues can see, the number of snowmobiles is totally dwarfed by the number of cars, motorcycles, SUVs, RVs, and other vehicles that enter the park, and I wonder if my colleague from New Jersey wishes to move beyond the banning of the 48,000 plus snowmobile users in the wintertime toward eliminating over 1.8 million summer vacationers from the park in the nonwinter parts of the year. Perhaps we should operate under the presumption that the fewer people accessing the park is better and maybe perhaps cars would be next.

My third chart, Mr. Chairman, is an emissions comparison of the popular West Yellowstone Entrance. The first bar at 150 parts per million of particulate matter is the EPA's National Ambient Air Quality Standard. The next bar of 33.7 parts per million represents the two-stroke snowmobiles emissions. The next two bars, representing 5.4 parts per million each, are for the 2001 Clinton snowmobile ban and the 2003 Bush Rule requiring best available technology. It is interesting how the requirement for best available technology, the use of cleaner and quieter four-stroke snowmobiles is dramatically well below the current EPA standard.

My fourth and next to the last chart, Mr. Chairman, is an emissions comparison for carbon monoxide at the West Yellowstone Entrance. Again, as my colleagues can see, the use of best available technology is well below the EPA standard, as shown on the far two bars there.

And my last chart is a comparison of audible noise and acres in Yellowstone National Park. I think this chart is very important because it shows that of the park's 22 million acres, only 182,540 acres would be affected by using best available technology in snowmobile access. I believe that is less than 10 percent of the park.

So we are here today to eliminate a historic use that affects less than 10 percent of Yellowstone National Park and its other users. For these reasons, and for the reason this is really a discussion of not recreation but access, and coming from the other part of the country that has Yosemite National Park, we deal with restrictive access issues all the time, I really would urge my colleagues to oppose the Holt-Shays-Rahall-Johnson amendment and rely on the current administration's attempt to work out a solution that will allow people access into Yellowstone National Park and still preserve the environment there.

Mr. HOLT. Mr. Chairman, will the gentleman yield?

Mr. RADANOVICH. I yield to the gentleman from New Jersey.

Mr. HOLT. Mr. Chairman, I just wanted to know if snowmobile use was permitted in Yosemite National Park.

Mr. RADANOVICH. Mr. Chairman, people do not use snowmobiles to get into Yosemite National Park as they would in Yellowstone National Park. They do not use snowmobilies to access Yosemite. I mean it is not a way one

gets in there because it is not the only way that one can get there in the wintertime.

Mr. HOLT. Mr. Chairman, so it is not a permitted use in Yosemite National Park?

Mr. RADANOVICH. Mr. Chairman, nobody drives a snowmobile to go to Yosemite. We live in the West under 4,000 feet elevation. We do not get much snow in the wintertime. I am sure they could drive one but it would be kind of stupid.

Mr. HOLT. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. GEORGE MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment. This has been an interesting discussion about the difference between two-cycle and four-cycle engines, and that is very important because the industry has made remarkable improvements in snowmobiles, in the skidoos and the watercraft industry and the motorcycle industry and the off-the-road vehicles of all different types because they recognize that people were having a very serious problem with the invasive nature of these vehicles but also recognizing that this is a very large economy. Many, many people use and enjoy, as family recreation, off-the-road biking, off-the-road vehicle travel, snowmobiling, skidooing, and the rest of that. But because we can do that does not mean we can do it everywhere we can do it. There are some places in this country that are in fact very special. And there are places that do not necessarily need to be invaded by a snowmobile whether it is two-cycle or four-cycle. One can use their cell phone almost every place but there are places we would prefer they not do it. They can but we choose to say no.

The gentleman just asked the question about Yosemite. In the wintertime, one could take a snowmobile and go out to the end of Glacier Point. It would be a beautiful, marvelous trip. In a full moon people go out and they travel on skis and they go out. It is one of the great pleasures in Yosemite National Park in the wintertime. Would people want to run a snowmobile out to the end of Glacier Point? It is a paved road. It is covered with snow in the wintertime. It is not plowed. The answer is probably not because it is a very special place, and I do not think one would want to be out there listening to two-cycle or four-cycle engines for that matter.

Yellowstone is one of those very special places, and we should not be taking this very special place and submitting it to this pollution and to the noise factor in this park. Its impact on the people who have to work there, its impact on the wildlife have been well documented in the reports.

Some people say, well, then we should not allow the snowcoaches in. No. The snowcoaches should continue to strive to be better, to improve their efficiencies, their pollution, and the rest of that. I am not for banning people in Yellowstone in the wintertime. But to have 750 people zipping around on snowmobiles recognizing that they are on the paved road, and that has been a big victory to get them out of the back country, to get them out of the nonpaved areas, but the fact of the matter is that this park should not be invaded in that fashion.

I have been to West Yellowstone. I have talked to the snowmobilers. They are having a great time and I understand all of that. But I think there are many miles of trail that they can ride adjacent to the park in the area and across this country. There are tens of thousands, hundreds of thousands of miles of trails that people can use that are official and unofficial trails that they use in the various States and the various regions where they can snowmobile. But we recognize, as the previous Congresses did when they set aside these great natural assets for this country, there are a lot of things we could do in the Grand Canyon but we would not. There are a lot of things we could do in Canyon Lands, but we would not because we recognize the integrity and the struggle that we have to maintain the integrity of these national parks. And in this particular one we are trying to make a decision that snowmobiling will not be allowed.

The gentleman from Minnesota who spoke said we can ride them in Voyagers. That is fine. Maybe that works in Voyagers. But we do not think it works, and it is incompatible with the protection and the use and enjoyment of Yellowstone National Park, and for that reason I would hope that people would support the Holt amendment.

Mr. REHBERG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose this amendment. Oftentimes in Montana I have to try to go back and explain some of the dumb things that Congress does, and I usually explain to them that we are a reflection of society, that there is no literacy test to run for Congress. They usually think that is pretty humorous.

But unfortunately there seems to be no common sense test and sometimes in the courts as well. This is one of those times when I am glad not to be a lawyer, because as I look at the dueling cases that are occurring in the court, I look at the kinds of decisions the judge made in Washington, D.C. And I invited this judge to come to Montana and actually take off his robe, get out from behind the desk and come out and learn something about what he is deciding on, as opposed to other judge who lives out there who understands the problem.

On November 20 of 2003, the district court judge back here in the case involving the limited use of snowmobiles in Yellowstone Park implied that the U.S. Government should consider strapping respirators on the resident bison of the park. Let me just read some of the dialogue that occurred between the judge and a witness.

''What about the animals? How are they protected? I mean how are their breathing abilities protected? If the park rangers are provided respirators,'' which they did not need them, by the way, that was a gimmick, ''what are the animals provided? Is there a safe haven for them somewhere? For the bison.

''Well, has anyone studied that, though?'' This is the judge. ''I mean in the film I saw, that's part of the evidentiary record. It was a 6-minute film.'' A film, by the way, that was inaccurately put together by the animal rights people.

''Have you seen that?'' he said. ''I saw bison being herded by snowmobilers.'' I hope not because it is illegal and somebody should have done something about that.

''Has anyone conducted any study on the impact of the quality of air they're breathing while being herded by snowmobilers?''

''Shouldn't there have been, though? That's a major concern, that the bison are dying off.''

They are not dying off. And in fact, in 1963 there were 400. Now there are 4,000. They have overpopulated themselves.

''Especially if the park rangers have respirators. They don't have respirators, obviously. What do they have?''

If this judge is so impressed by inaccurate films, I would hate to be the one to tell him there is no Yogi Bear and Boo Boo out there either. He ought to get his facts straight before he decides to judge on something so very important.

Listen to what the Court decided in Montana, a new winter access plan. As a result of many, many years of discussion and testimony and compromise and consensus, they came up with the idea that less than 1 percent of the entire park could have snowmobiles on it.

□ 1715

There are 2.2 million acres; and at about 180,000 acres, you can actually hear snowmobiles. You have to be on the snow-covered road, in single file, less than 35 miles an hour, with a guide. When it was unlimited, it got up to a number of 1,100. They have capped it at 780, and they have gone beyond that, and they have said it cannot go into one entrance at the 780 per year, you have to spread them around; and they set the numbers for the four entrances into the park.

It does not bother the wildlife. In fact, as we were looking at the picture, the snowcoach and the bison standing next to each other, a gentleman behind me said perhaps they ought to check that snowcoach for brucellosis, as close as it is. They are not afraid of these machines. Go out there and find out; you will see it for yourself. In 4 decades, not one single violation of clean air standards.

I saw a handout sent, a Dear Colleague, that suggested 250 miles of

snowmobile trails. Yes, there are, in Yellowstone Park. 14,000 miles of snowmobile trails in Idaho, Montana, and Wyoming.

Well, see, the sponsors of this amendment do not understand the difference between recreational snowmobiling and sight-seeing and destination points. The 250 miles of trails in the park matter, because they are to places like Old Faithful, Tower Falls, Paintpot, Geyser Basin. They are destinations where people want to go and look at these opportunities.

The final point is, look what you are doing to the communities. Over the years, we encouraged West Yellowstone, the Jackson area, Gardner, Cody to become gateway communities, to set up the infrastructure so they would not have to be built in the park; to create the motels, to create the restaurants, to create the gift shops, to create the recreational opportunities for the sightseeing to become available.

Then what comes along? Somebody that does not want to reasonably consider the fact that they have to pay for their children's clothes, for their children's education, for their retirement. They come in and say we are going to cut you in half. We are taking half of your income away.

Our communities cannot withstand that. I hope someday they understand the kind of devastation they have created for these communities and these families with this kind of legislation. I hope this judge will get out from behind his desk, come out to Montana, accept my invitation, and actually learn something, use some common sense, rather than making the kinds of inquiries that I hope were a joke about putting respirators on bison.

The CHAIRMAN pro tempore (Mr. BASS). The time of the gentleman from Montana (Mr. REHBERG) has expired.

(On request of Mr. OBERSTAR and by unanimous consent, Mr. REHBERG was allowed to proceed for 1 additional minute.)

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. REHBERG. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, the gentleman has made an eloquent appeal and a very compelling appeal. I just want to suggest for those who are concerned about snowmobiles and their effect on the environment, they should take a look at the 1,790,000 vans, buses, automobiles, motorcycles, RVs, SUVs, trucks that are rumbling through Yellowstone.

If they are really concerned, take a look at that impact on the environment and not pick on the snowmobile, which is well in compliance with the air quality and noise requirements of the National Park Service.

Mr. REHBERG. Mr. Chairman, reclaiming my time, I want to point out my statistic, it is less than 1 percent of Yellowstone Park you will be able to hear snowmobiles, it is .082.

I might remind some of my colleagues throughout Congress that there are other parks that have snowmobiling, and they will get you next. North Carolina; Washington has four; Maine; Colorado has four; Oregon; Pennsylvania; North Dakota; Ohio; California; Wisconsin has two; Iowa; Utah has two; and Michigan. Trust me, you are next.

Mr. SHAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to make a few comments.

The previous speaker, the gentleman from Montana, gave a very compelling argument, and it is one that I listened to. This is not an easy amendment for any of us; but it is important we have this debate, and it is important we visit each other's districts.

I happen to view Yellowstone and the Grand Teton National Park as not owned by Montanans, not owned by folks from Wyoming. They are owned by Americans throughout the United States. These parks are precious and they are owned by all of us.

What would have happened if the United States Government had not bought these parks? What would they be? They might be owned by someone in the private sector, and then no one could use them.

So I do not have any reluctance whatsoever in standing up and saying I own these parks, as much as anyone else here does. They happen to be in a place that I do not live, but I own these parks; and I have a right to say that my constituents own these parks. They own Yellowstone and Grand Tetons National Parks as much as anyone from Montana or Wyoming or wherever else; and they are owned by us to be used as we, a country, want to use them.

Our concern is that these two precious places are not being treated the way they need to be treated, and we are saying we would like there not to be snowmobiles in these two parks.

We are being asked by those who live there to allow snowmobile use because there is an economy that depends on their use, and I understand that. But that is the difference in this debate. The difference in this debate is we are saying this is a place that our constituents can go to, as much as yours, and the only difference is they have to travel farther to get there. And when they get there, my constituents are saying, they would like to go there and not have to see or hear snowmobiles.

The studies are pretty clear. They point out snowmobiles are not healthy to these parks.

I was not here for the first part of the debate, and I know my colleague, the gentleman from New Jersey (Mr. HOLT), wants to make some comments.

Mr. HOLT. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from New Jersey.

Mr. HOLT. Mr. Chairman, the gentleman from Montana (Mr. REHBERG) in response to an earlier amendment today said, ''We want Yellowstone park to be as natural as possible.''

We are not here to disparage the snowmobile industry. We are simply trying to make the point that Yellowstone National Park is a unique environment, it is particularly fragile in the winter, it is a precious national treasure that deserves an extra level of protection.

Now, my colleagues want to substitute their own judgment for the ones who have taken the measurements, the ones who have the data. We could talk about two-stroke engines and four-stroke engines, and I would be happy to refute all the arguments that have come up.

But the point is, the studies have been done; they have been done repeatedly. The Environmental Protection Agency said that the original National Park Service study was more thorough than anything they had seen on a similar subject; and the conclusion was, even considering the new technology, even considering the four-stroke engines, that the way to protect Yellowstone Park was to phase out snowmobiles, two-stroke engines, four-stroke engines, all of them.

Maybe my colleagues think that these machines, nearly 100,000 of them that go into the park, will not hurt anything. Maybe they want to believe that the experts are wrong and it will not hurt the air and the water and animals, it will not stress these animals during the tough times in the winter. But that is not what the studies show.

So we are simply asking that these 250 miles, this precious park, be set aside. The constituents of the gentleman from Minnesota (Mr. OBERSTAR) can snowmobile all over Minnesota. The constituents of the gentlewoman from Wyoming (Mrs. CUBIN) can snowmobile all over Wyoming. We are talking about America's premier park.

Mrs. CUBIN. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentlewoman from Wyoming.

Mrs. CUBIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want the gentleman to know that I completely agree with him that everybody who lives in the United States owns Yellowstone National Park. I totally agree with the gentleman on that. I do not think it belongs any more to Wyoming, Montana or Idaho than it does to the rest of the country. I will say when it comes time to taking care of Yellowstone and looking at the needs Yellowstone has, nobody does that but me.

I would also say that because we live there, because we work there, we do know the issue; and our knowledge needs to be respected too.

Mr. SHAYS. Mr. Chairman, reclaiming my time, I rise in support of the Holt-Shays-Rahall-Johnson Amendment to protect Yellowstone and Grand Tetons National Parks.

I believe protecting and preserving our environment is one of the most important duties we have as members of Congress. We simply won't have a world to live in if we continue our neglectful ways.

Our predecessors understood the preservation of our natural resources was a moral and patriotic obligation. It was their vision and foresight that led to the establishment of Yellowstone National Park in 1872.

The creation of our first national park was a far-sighted guarantee each new generation would inherit a healthy and vibrant Yellowstone, a park complete with wildlife, majestic vistas and awe-inspiring geysers.

But snowmobiles have put the park's health in jeopardy. When they roar through the park, they generate tremendous noise and pollution, forcing our park rangers to wear respirators to combat the noxious cloud of blue smoke in which they work.

The harm caused by snowmobile use in Yellowstone has been scientifically proven, studied further, and proven yet again. Over the past decade the Park Service, the Environmental Protection Agency, and independent experts have conducted extensive studies and always reached the same conclusion: a phase-out of snowmobiles is necessary to restore Yellowstone's health.

Last winter marked the start of a transition to snowcoaches. Just as the Park Service and EPA predicted, substituting snowcoach access for snowmobile use began to make Yellowstone a safer wintertime destination for the public, especially visitors susceptible to respiratory problems.

Visitors and park rangers breathed less carbon monoxide, formaldehyde, and benzene than in past winter seasons. Yellowstone was also quieter and less hectic for people and wildlife alike.

By a 4-to-1 margin, Americans overwhelmingly support protecting Yellowstone by replacing snowmobile use with park-friendly, people-friendly snowcoaches.

This amendment does not restrict winter access to the Park. Rather, it requires visitors to travel in a manner that protects Yellowstone's precious resources.

There are thousands of miles of snowmobile routes surrounding Yellowstone National Park including 400 miles near West Yellowstone, Montana alone. In Wyoming, Idaho, and Montana, the total is more than 13,000 miles. All of these opportunities will be unaffected by the Yellowstone amendment which involves only 180 miles of routes within Yellowstone National Park.

Let's not waste another minute or another dollar of taxpayer money further studying this issue. Let's put into law a scientifically sound, environmentally safe and fiscally responsible decision that protects our nation's first treasure.

I urge my colleagues to vote their conscience.

Mr. FARR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Holt amendment, and let me tell you why. I know a lot of these things have been said.

But, after all, this is a national park, and I think if you read Megatrends and what is happening in America, that the most increasing sport in America is watchable wildlife. More people watch wildlife than all of the national football games, baseball games, basketball games, golf, everything you see on television. More people are looking at wild animals.

Where do you go to look at wild animals and have the serenity of the wilderness? It is in the wilderness areas. It seems to me that that is the inspiration for thought, the inspiration for connection with nature. And if there is anything that is so obtrusive after you have gone into a park, it is to be interrupted by things that are not natural.

If there is something that is not natural in a national park, it is snowmobiles. It is like having chain saws while we are trying to have this debate here in this Chamber. We could not stand the noise. We would ask that it be stopped.

I represent the United States' largest marine sanctuary. We have outlawed jet skis in the sanctuary. Why? People do not want to go down to the ocean and just hear a bunch of noise from jet skis. They want to see otters, they want to be able to see sea lions, they want to be able to hear them, they want to be able to watch whales, they want to see the coastline in its natural state. That is why we have national parks. That is why it is the highest act of Congress to do it.

It seems to me if a park is a park is a park, then we have to do everything possible to make sure that park is the experience that people want to have in the wilderness. If you want to go out and have sports in the wilderness, fine, go to someplace in a national forest. But do not go to a national park to do it. It is just not right.

You do not allow hunting in the national park, and people could give you all reasons why perhaps you ought to have hunting, limited hunting; but we do not do it, and we ought not to have snowmobiles in any national park.

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

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

Mr. DICKS. Mr. Chairman, I want to associate myself with the gentleman's comments. I completely agree with him on this particular issue.

I understand there has been a lot of progress made with four-stroke snowmobiles over two-stroke, but still you wind up with the noise factor. I look at my friend from Minnesota, and I would say we have got the Forest Service lands that surround the national parks, where people can do that kind of recreation. We have the Olympic National Park in the State of Washington; we have Mount Baker Forest. There are areas where you can do these things; and, yes, maybe they will raise these issues.

But the top officials in about the last four administrations who run the Park Service believed that in Yellowstone this should be reconsidered. All the science is on the side of this. In my view, it is just like the jet skis. In certain areas, Lake Crescent within the Olympic National Park in the State of Washington, banned the jet skis because they were noisy. We had one county that did this because the people did not like the noise.

It is something about being out there in a national park where you want to enjoy the wilderness, the moment. This noise level still, in my judgment, is unacceptably high.

Mr. FARR. Mr. Chairman, reclaiming my time, I would like to also associate myself with the gentleman's remarks, and remind this body that only last week with all the construction that is going on, and we are trying to get that construction over with because it is so bothersome, but when we were having the service for former President Reagan in the rotunda, we stopped all the noise outside in the construction area.

It seems to me that we ought to allow the national parks to be places where people do not have to experience unnatural noises, and the noises from snowmobiles are very, very loud.

Mr. BISHOP of Utah. Mr. Chairman, I move to strike the requisite number of words.

(Mr. BISHOP of Utah asked and was given permission to revise and extend his remarks.)

Mr. BISHOP of Utah. Mr. Chairman, I know some of my colleagues are tired of me making reference to the fact that 2 years ago I was simply a high school teacher, but I am still amazed sometimes when I think back that indeed I was talking to a bunch of high school kids at that time, giving them brilliant lectures in history and government, and I know they were brilliant lectures because I was listening to them. Sometimes I feel I was perhaps the only one in the room actually listening to them.

None of you actually had the chance to hear them, so it bespeaks the question on can you actually give a brilliant lecture if no one is hearing it. All of you are politicians, and I realize your greatest orations are given in the shower or the bathroom as you are preparing for the day. And it bespeaks the question, Can you actually give a brilliant speech if no one is there to hear it?

National parks, like wilderness designation, is not a land management formula; it is a recreation designation. Brilliance of nature. Can it actually be there if no one has the opportunity of actually seeing it?

That is the purpose of a national park, to see the natural beauty that is there; and to do so there are trade-offs that we make. In the summer, we are willing to make those trade-offs, because they are so traditional. We become used to them.

□ 1730

We allow 3,000 belching automobiles to go through Yellowstone every summer day. We allow 956,000 tourists to go through there in the month of July alone. We put up public toilets and garbage collection areas not because they enhance nature, but because they make it possible for people to go through and experience what a park is supposed to be about.

We allow the noise of human activities at national parks, because that is

the purpose of a park, to experience and see it. We need to allow all our parks to fulfill the measure of their creation.

Winter beauty in Yellowstone is evident. It is not going to come out and be seen in the coaches, which are terribly ineffective and inefficient. It is a wonderful experience, I suppose, if you can yell over the noise and actually see through the fogged-up windows, but it is unacceptable, and so we find ourselves in the situation right now where one judge in Washington said there should be no snowmobiles, one in Wyoming said they all should be there, and what we need is what John Adams used to call the delightful of all legislative delicacies, a compromise.

Earlier this year there was a compromise. In August the concept of a compromise to come up with a policy of allowing snowmobiles acceptable in that kind of designation will go forward if this amendment is defeated. If this amendment is passed, it brings to a screeching halt any efforts to come up with a long-term compromise solution so that everyone can feel comfortable with that national park that belongs to everyone.

This amendment of the gentleman from New Jersey (Mr. HOLT) would halt that progress but also hurt people who actually want to experience these parks, and I am going to contend that it hurts the park itself. If Yellowstone Park actually had an assault, this would be an assault on that park as if one were assaulting somebody on the street, because its destiny, its premise and its purpose would be totally destroyed.

Parks are there for people to enjoy and understand. This amendment halts that. The gentleman from Washington (Mr. DICKS) said maybe this park should eliminate this type of activity by definition, and the answer is no, it should not, because by definition if you eliminate this activity, you eliminate the ability of people to experience the purpose of that particular park, and that is why that process should be there.

Mr. Chairman, I had the opportunity of reading an article in the New York Times from back in February by someone who was not a fan of the current administration's environmental policies but was sensitive to the importance of having a sensible compromise in this particular issue. His article talks about, once again, if one is a true environmentalist, the goal should be to have everyone enjoying the opportunity of Yellowstone in winter; the environmentalist movement should try to get more people out into the wild, not restrict them, and that is why as a backpacker, as an outdoor enthusiast, as a cross-country skier, he wanted the Bush administration's compromise to be upheld.

If we pass this amendment, there will be no chance of ever moving forward to reaching that or any other variation of that.

VROOMING INTO YELLOWSTONE

(By Nicholas D. Kristof)

President Bush's policy toward the environment has been to drill, mine and pave it, so it's understandable that environmentalists shriek when he pulls out a whetstone and announces grand plans for Yellowstone National Park.

Yet in the battle over snowmobiling in Yellowstone, it's Mr. Bush who is right. And, to me at least, the dispute raises a larger philosophical question: should we be trying to save nature for its own sake or for human enjoyment? Forgive my anthropocentrism, but I think humans trump the bison and moose.

Yellowstone National Park, a wonderland at any time of year, is particularly dazzling in winter, when the geysers shoot out of snowfields and the elk wear mantles of frost. I took one of my sons to visit last year and I learned two things that I don't believe most environmentalists realize.

First, in winter Yellowstone is virtually inaccessible except by snowmobile. Cars are banned (except for one small part of the park), and Yellowstone is so big that snowshoeing and cross-country skiing offer access only to the hardiest backpackers, who can camp in snow and brutal cold for days at a time.

Second, a new generation of snowmobiles is available with four-stroke engines, not two-stroke. These machines cut hydrocarbon emissions by 90 percent—and noise by 50 percent.

That's why the Bush administration has been pushing for a sensible compromise: snowmobiles would be allowed—but mostly the new four-stroke machines—only on roads and primarily on guided tours. Only 950 would be permitted per day. (In contrast, a busy summer day draws about 3,000 cars.)

Now two Federal judges are hurling thunderbolts at each other over this issue. A judge in Washington imposed tougher rules that would have ultimately banned snowmobiles from the park. Then a judge from Wyoming ordered that more snowmobiles be admitted. No one knows what's going to happen.

Environmentalists point out that one can also visit Yellowstone in snow coaches, which are a bit like buses on treads. But the existing snow coaches may be worse than the snowmobiles in terms of noise and pollution, and they are a dismal experience—you encounter nature only through fogged-up windows.

The central problem with the environmentalists' position is that banning snowmobiles would deny almost everyone the opportunity to enjoy Yellowstone in winter—and that can't be green.

As an avid backpacker who loves the outdoors, I think the environmental movement should be trying to get more people out into the wild. That's why I'd like to see the Bush administration's compromise upheld, so Americans can continue to enjoy Yellowstone in winter. Cross-country skiers and snowshoers would, of course, still have all of backcountry Yellowstone for themselves, with no machines for many miles around.

Granted, snowmobiles are an intrusion. But so are cars. In the summer, we accept a trade-off: we admitted about 965,000 people last July to Yellowstone, with all the noise, garbage, public toilets and disruption that entailed, knowing that the park would be less pristine but that more people would get a chance enjoy it. That seems a fair trade.

The philosophical question is the purpose of conservation: Do we preserve nature for its sake, or ours?

My bias is to put our interests on top. Thus I'm willing to encroach on wilderness to give Americans more of a chance to get into the wild. That's why we build trails, for example—or why we build roads into Yellowstone.

All in all, I'd love to see more effort by environmentalists to get Americans into the wilderness. It would be nice to see a major push to complete the Continental Divide Trail in the Rockies, which runs from Canada to Mexico on maps—but which has never been fully built. Likewise, there is talk about building a hiking trail across America from west to east—it could be called the Colin Fletcher trail, after the man who helped popularize backpacking in America.

Putting human interests first doesn't mean that we should despoil Yellowstone, or that we should drill in the Artic National Wildlife Refuge, or that we should allow global warming. We have a strong human interest in preserving our planet. But we should also allow ourselves to enjoy this natural world around us—including the grandeur of Yellowstone in winter—instead of protecting nature so thoroughly that it can be seen only on television specials.

The CHAIRMAN pro tempore (Mr. BASS). The time of the gentleman from Utah (Mr. BISHOP) has expired.

(On request of Mr. POMBO, and by unanimous consent, Mr. BISHOP of Utah was allowed to proceed for 2 additional minutes.)

Mr. BISHOP of Utah. Mr. Chairman, I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, I really did enjoy the comments of the gentleman from Utah (Mr. BISHOP), because I think that they hit on something that has been missing in this debate. We have spent a lot of time talking about two-cycle versus four-cycle and what happens with the noise and the pollution levels, and I think that is extremely important in terms of the debate, but one thing that has been missing in this entire debate was brought up by my colleague, the gentleman from Utah (Mr. BISHOP), and that is that all national parks, including Yellowstone, are not managed for their maximum environmental protection. Congress has directed that all parks are managed for two purposes, visitor use and enjoyment and resource protection.

The Park Organic Act of 1916 mandates the agency to balance these purposes, so it is illegal for the Park Service to disregard visitor use.

I heard my colleague a minute ago stating that mixing up a wilderness area and a park and kind of trying to go back and forth between wilderness and park, they are not the same thing. The purpose of a national park also includes visitor enjoyment and the ability of visitors to go there and be part of that park and see what is happening there.

One of the things, one of the disturbing things that has happened with these amendments that have been brought up is they seem to constantly be trying to limit access, the American public to have access to these national parks and not allow them to get inside. That is extremely disturbing.

The gentleman from Connecticut was right. These national parks belong to all of us, but if we cannot get into

them, then we do not have the ability to enjoy them. These are not wilderness areas; these are parks, and part of that is building visitors' centers, it is building roads, it is getting people inside to enjoy them.

Mr. Chairman, I urge a no vote on the amendment.

Mr. SCHIFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the opportunity to speak, and I wanted to address a few of the points that have been made, including the last point that was just made, that if you cannot get in, you cannot enjoy the resources, and I think this is really quite true. But this goes to the air quality issue.

When we talk about the degrading of the air quality at Yellowstone, we are talking about an access issue. When there are health advisories, when the Park Service says that if you have a respiratory condition, you cannot enjoy the park today, this is an access issue. This is not discretionary. We are saying that this park is simply unavailable for those who cannot breath polluted air.

My colleagues on the other side of the aisle like to cite statistics, that Yellowstone has never violated Clean Air Act standards, but these standards are meant for the entire country. Yellowstone is intended to be a Class 1 airshed, the cleanest, most pristine air in the country. Visitors from across the country do not come to Yellowstone to breath the same air they get at home. I can certainly attest to that, being from Los Angeles. If we want dirty air, we stay home. We have plenty of it in L.A., we do not need to go to Yellowstone to find smog. Instead, we go to a place like Yellowstone because we enjoy the pristine air, the pristine environment, and for those who have respiratory conditions, it is not a question of merely enjoyment, it is a question of access to these precious sites.

It should also be noted that emissions from snowmobiles actually threaten the health of some of the visitors, as well as the park employees. We have seen before the pictures of rangers forced to wear gas masks because of the smoke at entrance gates. These are not the images that we associate with Yellowstone or want to associate with Yellowstone. Doctors and scientists have also warned that people with upper respiratory conditions like asthma, that park pollution in the winter may be a serious threat to their health.

A second issue I wanted to address in addition to the air quality is that of the economy. We have also heard from my colleagues on the other side of the aisle concerned with the economic impact of this amendment. But in fact, many business owners say that protecting Yellowstone's health is the cornerstone of a sound economic strategy for the region. The Rush amendment, the Rush-Holt amendment would protect Yellowstone's health and help diversify the area's winter economy.

Even the Bush administration's own 2-year study concluded that the phasing out of snowmobiles in Yellowstone in favor of snowcoaches would have a short-term impact of less than 1 percent on the economy of the 5 counties surrounding Yellowstone. And certainly, the economic impact of the continuing uncertainty over litigation and reregulation that has occurred over the last several years has a far more significant impact than the certainty that would be provided by this amendment, by the clarity it would provide in the quality of the air, and in the business environment, the continuing attraction of Yellowstone for people around the country and around the world. I have seen very few people cogently argue that degrading the quality of some of our most pristine areas will attract more visitors to the region. It simply will not.

Mr. OTTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is reassuring to hear the gentleman who just spoke from California now willing to use the Bush administration figures on the economy when for weeks, maybe months, I have sat on this very floor on all issues relative to the economy and unemployment and how bad things were, how wrong the Bush administration has been. But now, all of a sudden, we have a report that the gentleman from California is willing to adhere to, and it will only affect the economy of Yellowstone by 1 percent.

I would ask the gentleman from California that if we should come up with a national policy which would only affect the economy of California by 1 percent, would the gentleman from California then be most willing to accept that without any argument?

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. OTTER. I yield to the gentleman from California.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding. As I was mentioning, even the present administration's estimate, which I think generally errs far on the side of saying that any environmental protection would be injurious to business, even this administration's expectation is that it would have less than 1 percent impact. So I am saying that even for this very strongly, unfortunately, anti-environmental administration, even they do not see an impact.

Mr. OTTER. Mr. Chairman, reclaiming my time, it is not unusual, as the gentleman just represented and as the potential leader of the gentleman's party, it is not unusual for him to flip-flop back and forth, depending upon how the argument will fit the present issue.

But getting to the issue that we are debating here on the Yellowstone National Park, not too long ago, perhaps far too long ago for certain people to recall, someone once said, ''and they sent hither swarms of agents to harass our people and eat out their substance.'' And that is precisely what these swarms of people from New Jersey and from other places east of the Mississippi River, and a few other misguided souls that have found their way west, perhaps are doing with this issue.

I want to remind the gentleman from New Jersey that when that report was written there was no such thing as a 4-stroke engine in a snow machine. So how convenient to use that argument when there was no 4-stroke engine. The EPA report dealt only with 2-stroke engines, not 4-stroke engines.

So I would just like to remind all of those who have argued today that let us set the standard right here and now, and that is what we are doing, because I know of at least three potential national monuments, three wilderness areas that are coming up in my State for consideration, and if this is the way my colleagues are going to treat a well-compromised agreement over the course of 10 years and finalized within the last three, that with every new whim and every new Congress and every idea that somebody east of the Mississippi River comes up with wants to come and then change the order in which we agreed to that compromise, then I am going to start voting not only against this amendment, but I will vote against each and every compromise that comes down on anything, many of those which I was willing to at least accept because they were a compromise made in good faith. But if every time we want to change something, we decide well, this is our generation's turn and even though it was compromised out in 1980s on the Frank Church-River of No Return Wilderness Area, now all of a sudden we are wanting to change that compromise. Which other compromise will we change today?

So what we do today, Mr. Chairman, what we do today, I should say will set the order for every compromise that we should ever consider on this floor. Because once these compromises are reached, we thought they were agreements that were made in good faith and not to be changed at the whim of every new environmental organization that may need to raise some funds and, therefore, create a clause appropriate to raising those kinds of funds.

So with that, I would say to the gentleman from New Jersey (Mr. HOLT), if he wants to stop, if he wants to erase all traces of mankind in a national park, he is just a couple of thousand years too late.

Mr. HOLT. Mr. Chairman, will the gentleman yield?

Mr. OTTER. I yield to the gentleman from New Jersey.

□ 1745

Mr. HOLT. The word ''compromise'' is something of a euphemism here because there was a rule in place that, several years ago with the new administration, was rescinded, so there was not anybody compromising with anybody. They rolled back an existing

well-considered rule and substituted another one.

Mr. OTTER. Reclaiming my time, I would remind the gentleman from New Jersey (Mr. HOLT) that it was the agreement in the compromise that they were looking to at the time that caused the snowmobile industry to engage in research on the four-stroke engine.

Mr. BLUMENAUER. Mr. Chairman, I move to strike the requisite number of words.

I am listening to the debate as it has proceeded. I speak with the trepidation of somebody who is even further west than Idaho, but I do not think that gives me any special knowledge or wisdom or right to speak on this any more than my colleague from New Jersey (Mr. HOLT), who I know to have been deeply involved with issues that deal with natural resources, and I know that he was not originally from New Jersey. My colleague from Connecticut (Mr. SHAYS), who has been deeply concerned with issues that relate to national resources and has a wildlife refuge in his district, people do not recognize is in Connecticut.

I just finished a day-long conference with my colleague, the gentleman from Oregon (Mr. WALDEN), about the future of Mt. Hood, which is in my district. There is a national forest. There is a national scenic area. We were aware of the balance, the struggle to try and deal with the issues of urban life, of recreation, of competing demands. But we concluded in our community, as have most Americans, that it is a fallacy to say if you cannot get in and enjoy every square inch any way you want that you are shut out and you cannot enjoy it.

We are not talking about putting a gondola to the top of Mt. Hood. There are areas that are too sensitive to have motorized dirt bikes or even pedal dirt bikes, and we are working with people who deal with that form of recreation to work with them in a way to manage and respect the resources. I have a friend, an Oregonian ex-pat, Mike Finley, who was the superintendent of Yellowstone. I have had conversations with him for years about this issue.

The ban on snowmobile use in this particular area was the result of extensive study, not once but twice by the Park Service. It included the EPA, not once but twice. There was a massive involvement of public input, and this is a decision that was studied and was appropriate for the Yellowstone area that is unique. It is outrageous what is happening in terms of the noise and the air pollution in some of these sensitive areas, and the vast majority of the American public agrees.

I am not opposed to all motorized, mechanized forms of recreation. There is a place for jet skis, for snowmobiles, for mechanized dirt bikes. But for heaven's sake, we have to recognize that there are some areas where they are not appropriate. There are hundreds of miles immediately adjacent to the areas in question where snowmobiles are allowed. This Congress and the Park Service are able to work with the recreation industry, the manufacturers, and the people who practice them to be able to make sure that they are not shut out in the future. That is not the intention.

This is the culmination of over a decade's work. We heard my friend from Idaho talk about changing signals. Well, there are an awful lot of people who have been involved with this for a long time who think that the original proposal reversed by the Bush administration was itself a compromise. It was itself a studied, deliberative action that was thrown in reverse by the Bush administration for ways that I have not been able to understand and I think are inimical to the expectation of the vast majority of the American public.

I hope that this body has the wisdom to approve this amendment; to reinstate the result of a long, careful, thoughtful, deliberate action; to not confuse this with denying access, which it is not, and for heaven's sake not fall into the trap that we have to continue the way we have done it in the past. If anything, we need to avoid further exploitation of sensitive resources to mechanized activities that are in many cases not appropriate.

This is a balanced amendment. It is a studied effort, and I hope that we will approve it when the time comes.

Mr. PETERSON of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Somebody said I cannot talk, I am too far east. Maybe we ought to have people who have ridden on snowmobiles and understand them, the only ones that can talk. I think it might have changed the debate a little bit today.

Someone talked about a fair process. In 1997 the Park Service began the process of developing an environmental impact statement. The service has prepared research examining winter wildlife, snowmobile emissions and impacts, and visitor use. They released the draft of EIS on September 29, 1999, for public comment. The draft contained seven alternatives. None of them talked about banning snowmobiles.

Just a couple months later in December, the service prepared a substantially revised alternative G, which made it rather than alternative B, the new preferred alternative. These changes include an outright ban on all recreation snowmobile use in the park. None of these changes had been previously shared with the public or the State or the county cooperators.

The cooperating States immediately protested. Then on April 27, the former Secretary, John Barry, issued a memorandum directing the service to prohibit the snowmobile use.

That is the process that was reacted to. That was the process that was considered a compromise, not a compromise.

I was not planning to speak on this issue, but I had three snowmobiles for a long time, when my children were growing up and neighbor kids, and we had some wonderful times there. I was intrigued when the gentleman from California talked about wildlife watching because I have probably spent as much time watching wildlife as anybody in this Congress. As a kid, I grew up in the forest. I camped in the forest. In the summertime, my brothers and I slept in the forest, and I can tell you for hours the wonderful wildlife scenes that I saw.

I want tell you, I will never forget the day my wife and son and several other people saw their first flock of turkeys up close. Yes, we were on a snowmobile, putting down a country lane, a road in the woods, and came down around the hillside and there was 15 or 20 turkeys scratching. They stopped and watched us, scurried off to the side as we went by.

I remember seeing deer; and I taught my son, when we see wildlife, do not stop. Just keep moving slowly. We went by beautiful deer looking over us. And I will never forget the day that this big owl sat there fairly close to us, and I can still see him squinting with one eye, trying to see what we were, watching us put by on our snowmobiles. I have seen fleeting fox. I have seen all kinds of wildlife creatures because they are far less scared of you on a vehicle than they are in person. If I had walked around that bend, I probably would not have seen them because they would have seen me before I saw them. But I have seen more wildlife, wonderful, beautiful scenes; and if you learn not to react to them, they will watch you go right by.

We have seen wildlife up closer where you actually watch their eye activity on a snowmobile. So those who are interested in wildlife watching, snowmobiles are not that big machine that is going to chase wildlife away. They are far less fearful of that vehicle putting down through the woods than they are of any one of us walking.

I have spent thousands of hours out there, and I cannot tell you the stories I have seen of beautiful wildlife scenes on a snowmobile. So that argument, in my view, needs to be turned around.

People will see scenes on a snowmobile they never dreamed of. They will see wildlife up very close. And I think that is an important part that needs to be shared.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in opposition to the base bill H.R. 4568, I offer amendment jackso.004, which proposes to prevent "Land Acquisition and State Assistance" funds to be used to support the conveyance of, development on, or destruction of lands that contain historic grave sites or buildings that contain burial grounds of slaves, ex-slaves or soldiers of the Civil War or otherwise are associated with historic conflicts fought on American soil.

I do not offer this amendment to protect African-American history, solely. Rather, I seek to preserve American history, in which slavery

and warfare is embedded. I offer this amendment, Mr. Chairman, to preserve HUMANITY. In addition to the importance of preservation, we must utilize our historic sites as teaching sites, and learn from them. Our American schools must not turn their heads at the thought of our tumultuous past. Rather our schools should embrace occurrences of warfare and enslavement as important components of our history, which has made us the nation we are today.

In my district, a historic cemetery bearing the remains of infamous African American Buffalo Soldiers and other African-Americans rests beneath a proposed Houston Independent School District construction site. This area of the 4th Ward, formerly known as Freedman's Town, stands as a pillar of the African-American community for almost 150 years, and represents the adaptation of African-Americans to freedom and urban life. And in 1984 Freedmen's Town was described as the largest, and last remaining intact freed slave community in the nation. Already, plans have commenced to destroy the area and rebuild Gregory-Lincoln Education Center and relocate the High School for Performing Visual Arts (HSPVA) on the site. This blatant disregard for the lives and remains of African Americans who fought to preserve American freedom, as we know and envy it, should not be tolerated, ignored or rewarded through the allocation of funding. Therefore, I urge the members of Congress to pass my amendment, which would prevent Congress from aiding in the destruction of American history.

Clearly, I am in support in the improvement and expansion of facilities for youth in my very district. However, I can not support the destruction of our past for this particular endeavor, which could be relocated to another site. I can not support the disrespect of those who fought for our nation, despite the pain and suffering inflicted upon them by the shackles of slavery. I propose that historic landmarks like this one be used to teach children and adults, alike, about the importance of those African-Americans who fought for our freedom, as well as to teach us all about the importance of preserving our American history. I am disheartened to learn that this teachable moment is not being seized and has stirred such a great level of controversy among residents and officials. I will be even more disheartened if the Congress fails to intervene, and prevent this destruction. With this amendment, we will prevent future controversies such as these, and more importantly the federal government will assert its commitment to preserving our American history, which is too often forgotten.

I would also urge you not disregard the spirit of the National Historic Preservation Act of 1966 (16 U.S.C. 470, Public Law 102–575). Failure to pass this amendment would do just that, and the National Historic Preservation Act seeks to protect sites like the Buffalo soldier cemetery.

I ask you, Mr. Chairman, would the federal government fail to preserve historic sites like Arlington National Cemetery? Of course, not; the federal government protects this site and should protect sites like the cemetery of the Buffalo Soldiers. We must govern responsibly by closing potential loopholes and problems in our proposed legislation. In this case, we must protect our American history, which encompasses all races and creeds. It is our job as the federal government to protect historic sites, not leaving our localities up in arms to quarrel. In closing, Mr. Chairman, I urge my colleagues to pass the jackso.004 amendment to H.R. 4568, which prevents the disrespect, denigration and destruction of our past; and educates our future with the truth.

The CHAIRMAN pro tempore (Mr. BASS). The question is on the amendment offered by the gentleman from New Jersey (Mr. HOLT).

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

Mr. HOLT. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New Jersey (Mr. HOLT) will be postponed.

Mr. HERGER. Mr. Chairman, I move to strike the last word for purposes of a colloquy.

Mr. Chairman, I want to thank the gentleman for engaging in this colloquy with me about the need to increase water storage in the Klamath Basin and to seek balanced solutions that will allow everyone to get well together, rather than unfairly targeting agriculture as the problem.

Mr. Chairman, first allow me to clarify some inaccuracies in a colloquy that occurred last night involving my good friend and colleague from Oregon.

Allow me to point out that the gentleman from Oregon who engaged in that colloquy with the chairman last evening, through which he professed concern about the Klamath Basin, does not represent that area. In fact, his district is nearly 300 miles away.

I want to clarify that for the record because I think there was a misunderstanding. In fact, the three Members of Congress who actually do represent the citizens of that area, myself, the gentleman from Oregon (Mr. WALDEN), and the gentleman from California (Mr. DOOLITTLE) do not support the position of my friend, the gentleman from Oregon.

The studies he proposed will not provide solutions for the Klamath Basin. These issues have been studied and restudied. There is no smoking gun. While the proposed ''studies'' and other past efforts to regulate the lease lands are said to be benign, they are far from that. They were an attempt to undermine farming.

I ask that the committee not support anything that attempts to misconstrue the farming situation on the refuges and wrongly imply that it is a problem or poses a conflict with wildlife.

It simply ''is not'' and ''does not.'' In fact, quite the contrary. Agriculture and wildlife are thriving on refuges.

Finally, Mr. Chairman, let me clear up one other misconception. The Klamath Basin disaster of 2001 was not about too much demand. It was about an unbalanced regulatory regime and scientific failings that caused water to be needlessly taken from agriculture and from refuges from endangered species. After updating the law and the science, the other important step for us to achieve balance is for Congress and the administration to work to increase water storage.

My concern, Mr. Chairman, is that new water supplies are not being pursued with the vigor and the commitment that they require. Congress authorized the Klamath Basin Water Supply Enhancement Act nearly 5 years ago; however, we have yet to see significant measurable progress towards developing new supplies.

Mr. Chairman, we hope to have your support for encouraging the Secretary of the Interior to put more money and more energy into using this authority to aggressively pursue new storage opportunities such as a Long Lake Reservoir which can provide more water for all interests in the Klamath Basin.

One last thing, Mr. Chairman. If any of my colleagues want to work to find solutions for the Klamath Basin, I want to personally invite them to come to the Committee on Resources' field hearing on July 17. Rather than an uninformed debate here on the House floor, we would talk to the people on the ground and engage in a thorough discussion about the real problems and constructive solutions.

We would talk about what farmers are actually doing for the refuges. We would discuss the scientific shortcomings and how to fix them for the long term. We would talk about how to develop more water supplies to create water supply certainty for all interests.

Mr. Chairman, again, I appreciate your support for honest debate and balanced solutions. I hope that we will have your support to implement expeditiously whatever commonsense balanced solutions might arise from our hearing.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I would like to work with the gentleman and the Fish and Wildlife Service to ensure that what ultimately is done is something that will be productive and useful and not further fuel the controversies surrounding the Klamath program. I commend the gentleman for suggesting that and we certainly will work with him.

Mr. HERGER. I thank the gentleman.

□ 1800

Mr. THOMPSON of California. Mr. Chairman, I move to strike the last word.

I would ask that the chairman engage in a colloquy. Mr. Chairman, as we all know and probably too well, water issues in the Klamath Basin have caused a number of conflicts, not only in the upper, mid, and lower basin but also right here in this House in Washington, DC.

But, Mr. Chairman, this afternoon I would like to bring to our attention what I believe to be a very positive

step towards bringing some meaningful help to this issue of water throughout the Klamath Basin, a positive step that addresses both the issues that are important to farming and the issues important to fishing.

The land management agencies have pointed out that by repairing two dams in the Marble Mountain Wilderness Area that we could provide extra cool, clean water down one of the Klamath River's most important tributaries. I am working with other members of the California delegation and our colleague from the Oregon delegation who has this Klamath Basin in his district to explore potentially promising alternatives for the Klamath Basin, and I would ask my colleagues to please indulge us and to help us work through this in using the Interior appropriations bill as the vehicle to provide whatever may prove to be necessary to make these good, positive steps to continue so we can get this behind us.

In closing, I also would like to extend an invitation for those who are going to meet in the upper Klamath to discuss resource issues that are important to farming to please note they are welcome to come down to the mid- and the lower basin to hear from fishermen and fishing families so they fully understand what is important to the needs of the entire Klamath Basin.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of California. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

I would be happy to work with the gentleman on exploring promising solutions to the Klamath situation and with the California delegation and the Oregon delegation, also; and I commend the gentleman for his work.

Mr. THOMPSON of California. Mr. Chairman, I thank the gentleman very much.

AMENDMENT OFFERED BY MR. WEINER

Mr. WEINER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEINER:

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

TITLE V—ADDITIONAL GENERAL PROVISIONS

SEC. 501. Not later than July 31st, 2004, the Secretary of the Interior shall provide public access to the Statue of Liberty and its interior that is substantially equivalent to the access provided before September 11th, 2001.

Mr. TAYLOR of North Carolina. Mr. Chairman, I would like to reserve a point of order on the amendment.

The Chairman pro tempore (Mr. BASS). The gentleman from North Carolina (Mr. TAYLOR) has reserved a point of order.

The Chair recognizes the gentleman from New York (Mr. WEINER) for 5 minutes.

Mr. WEINER. Mr. Chairman, I thank the chairman and his terrific staff, Deb Weatherly, and the gentleman from Washington (Mr. DICKS) and Mike Stephens and the gentleman from Pennsylvania (Mr. PETERSON) for their help with this amendment. This is quite simple, and I think it is something we could find broad consensus on in this House.

On September 11, 2 years, 8 months and 6 days ago, all national parks in these affected areas of Washington and New York were closed. Today, all that time later, the Statue of Liberty, the national park that is closest to Ground Zero, the national park that arguably represents all of the things that were attacked on September 11 and represents the values of this country, remains closed today.

What this amendment says is enough is enough, reopen the Statue of Liberty by July 31, 2004. It is not closed for lack of money. This House has allocated $19.6 million for security enhancements, and that is between fiscal year 2002 and fiscal year 2004. There is an additional $10 million or so in this budget for that. The time has come for the Statue of Liberty to be reopened.

It is almost mind-boggling to me that only a matter of weeks after September 11 the Washington Monument was reopened. The Republican National Convention, which by the way we would be welcoming with open arms to New York City, will soon be coming to New York City at least in part to the proximity to that attack on our country; and yet the National Park Service refuses to open the Statue of Liberty.

Recently, they made the announcement that we are going to allow people to go into Lady Liberty and stand next to her toes, that this was some kind of a great victory for the people of the United States, despite all of the money that had been allocated for reopening. If that does not gall my colleagues, take a look at this.

This is a picture of a Web site from something called the Statue of Liberty Foundation. They have raised more than $7 million, which by the way is the amount that was originally said to be the cost for opening Lady Liberty. Folgers sponsors it. If a person sends in a Folgers can, they help contribute to reopening Lady Liberty. American Express has been giving a few dollars. Recently, the Daily News in New York City ran a campaign on their editorial page. People are giving donations of $1, $2, $3 at a time.

Millions of dollars have been raised for what purpose? To open Lady Liberty, not open her feet. Open the crown. Open the part that is most glorious. Open the part that should be symbolic of us getting back on our feet, and yet it has not happened.

It is inexplicable. The Park Service, what have they been doing? Well, we are thinking about it. We are planning to make a plan. We are anticipating maybe coming up with an idea. The National Park Service should be ashamed of their inactions. We in Congress have done our job. We have given them money after money after money for this purpose, to come up with security provisions.

We here in the House of Representatives, we had to figure out security as well. We have come up with some accommodations. People are back here and visiting. This monument is more than simply a national park. It is symbolic of this country. If the National Park Service is expecting us to believe that we are going to leave this closed ad infinitum, they have got another think coming. There is no way they can secure us in this building, they can secure us on airlines, they can secure us in the Washington Monument, they can secure us anywhere in the United States of America. Osama bin Laden is not going to keep the Statue of Liberty closed, and what this amendment says is we are not going to allow it to happen.

Republicans, Democrats, Independents alike have all contributed to help get this open. The taxpayers have contributed enormous amounts to help get this open. We have children doing cake sales all around the country to get the Statue of Liberty open; and what we are being told is, well, maybe someday we will allow people to go in and pat Lady Liberty's toes. That is about as far as we are going to get.

I believe it is outrageous. I believe it is outrageous, and we have to recognize something, that is, if we are going to raise money to reopen it, and allow people to be deceived in that way, the very least we in Congress should do is say, spend the money for what you said it was going to be for; and if by some unimaginable set of circumstances, the National Park Service, United States Armed Services, the NYPD, the United States Congress cannot figure out a way to reopen this monument, I hate to use an overworked cliche, but really, the terrorists have won. If they manage to keep this closed, it would be a shame.

I want to make one other point. I hope that when my colleagues on the Republican side of the aisle come visit New York, they have an opportunity to see the glory of traveling up to the crown of the Statue of Liberty, of seeing that glory, of participating in that. And what my colleagues will see is not only the glory of New York Harbor welcoming waves of new immigrants. They will see Ground Zero. It is a shame that when we stand at Ground Zero, the national park we see is one that is shamefully closed.

POINT OF ORDER

The CHAIRMAN pro tempore. Does the gentleman from North Carolina (Mr. TAYLOR) insist on his point of order?

Mr. TAYLOR of North Carolina. Mr. Chairman, I do.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. TAYLOR of North Carolina. Mr. Chairman, while I may be sufficiently galled and while I appreciate the gentleman's welcome to New York, I must make a point of order against the

amendment because it imposes to change existing law and constitutes legislation in an appropriations bill, and therefore, violates clause 2 of rule XXI.

The rule states in pertinent part: No amendment to a general appropriation bill shall be in order if changing existing law. The amendment gives affirmative direction, in effect.

I ask for a ruling from the Chair.

The CHAIRMAN pro tempore. Does any Member wish to be heard on the point of order?

Mr. WEINER. Mr. Chairman, I would like to be heard on the point of order.

The CHAIRMAN pro tempore. The gentleman from New York is recognized.

Mr. WEINER. Mr. Chairman, first of all, I want to thank the chairman of the committee and the ranking member. They have both allocated a remarkable amount of resources to solve this problem and deserve great praise.

I would argue on the point of order, Mr. Chairman, that this is not a change in existing law; that we, in existing law, have already articulated the will of this House that this monument be reopened; that this be a national park that we have allocated resources to. I would say that this is only a reiteration of existing law.

Now it might not be in this bill, but it is existing law; and I would even argue that given the allocation for security enhancements that it is the intention of this House that steps be taken; and therefore, it is not legislating in an appropriation bill, and if it is, we should do it anyway.

The CHAIRMAN pro tempore. Does any other Member wish to be heard on this point of order? If not, the Chair will rule.

The Chair finds that this amendment includes language imparting direction. The amendment, therefore, constitutes legislation in violation of clause 2 of rule XXI. The point of order is sustained and the amendment is not in order.

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKS:

At the end of the bill, before the short title, insert:

SEC. . ''The Secretary of the Interior shall submit a report to Congress 30 days after the enactment of this act with a date certain of when and whether the public will have full access to the Statue of Liberty including all areas that were closed after 9/11.''

Mr. DICKS. Mr. Chairman, this is an amendment I have offered with the gentleman from Pennsylvania (Mr. PETERSON), and I think the chairman is prepared to accept it.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington (Mr. DICKS).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

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

TITLE V—ADDITIONAL GENERAL PROVISIONS

SEC. 501. None of the funds made available in this Act may be used to eliminate programs funded under Title III of the Healthy Forests Restoration Act.

Ms. JACKSON-LEE of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Chairman, there are times when there are vehicles on the floor of the House that we wish to be more receptive and sensitive to the many myriad of issues that face our communities. The Interior bill is a first stop for this effort to help us recognize that forestation and trees are not only valuable for Yellowstone, or some of our national parks, but they are, in fact, valuable for rural and urban America.

One of the most detrimental aspects of living in asphalt cities is the fact that we do not have green trees. My amendment simply reinforces the idea that in urban settings or in other settings we should make sure that no funds are used to eliminate the funding under the title III of Healthy Forests Restoration Act.

Clearly, I believe that we are threatened by the lack of urban forestation, and so my amendment really does speak to a point of importance that will ensure urban reforestation programs.

Let me applaud the Houston Partnership who spent many hours in Washington trying to convince Members of Congress of the value of increasing the number of trees in Houston. Planting of new trees and proper preservation of existing trees have proven to lead to a cleaner air quality, lowering of temperatures by countering the urban heat island effect, and a reduction of flooding that will benefit both human- and wildlife.

Mr. Chairman, let me tell my colleagues that Houston, Texas, knows firsthand about the heat island, and we certainly know firsthand about flooding. We also know firsthand the value of trees.

As I look at the trees in my own community, some 50, 60, 70, 100 years old, we know that they can be here today but in our community gone tomorrow through some hurricane or tornado, and so this amendment is a commitment to the city of Houston that we will find ways in our legislative agenda and the appropriations process to recognize the value of treeing our urban and rural areas.

I would ask my colleagues to recognize the importance of Members making the point, even on the appropriations bill, to suggest that no funds should be kept from urban reforestation and that national parks, as I applaud and vote for amendments to protect them, should not be the only entity in which funding is secured as it relates to providing for reforestation or providing trees in our areas.

I hope to encourage my community not only to secure funds for reforestation but I encourage our neighborhoods to plant trees so that more trees can grow in our urban areas.

With that, Mr. Chairman, I am prepared at this time to withdraw this amendment, hoping that I have left a point of impact and to look forward to working with other appropriators in actual funding for the reforestation of Harris County, Houston, Texas, the fourth largest city in the Nation, that can really benefit from reforestation and to eliminate the heat island and the environmental effect as well.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise today to support my Amendment which states that none of the funds made available in this Act may be used to eliminate or restrict programs that are for the reforestation of urban areas. The Jackson Lee Amendment will ensure that urban reforestation programs, which are in dire need, will not be threatened. When many of us think of issues relating to the Interior we usually imagine rural areas or our National Parks, but it has become increasingly evident that urban areas also need to reap the benefits that reforestation provides. Planting of new trees and proper preservation of existing trees have proven to lead to cleaner air quality, lowering of temperatures by countering the Urban Heat Island Effect, and a reduction of flooding that will benefit both human and wildlife.

This initiative to plant trees is one that every major metropolitan city should undertake for the well-being of its inhabitants. It is a known fact that natural plants, especially trees, help to naturally improve air quality, an issue that is troublesome in many parts of America. The people of America and all future generations deserve to breathe clean air and not be forced to choke on smog-filled skies.

Many of America's largest cities unfortunately also face the consequences of the Urban Heat Island Effect. The Urban Heat Island Effect is caused in areas of low vegetation and large expanses of concrete and asphalt that absorb heat during the day and then release it to create hot-air ''domes'' over the city. The Urban Heat Island Effect can contribute to the temperature rising up to ten degrees higher; the effects of this increased temperature in the spring and summer months, as you can imagine, are severe. While research into this area is relatively new, science has shown links between the Urban Heat Island Effect and greater levels of bad ozone and a greater frequency of lightning storms as has

occurred in my district in Houston. The planting of new trees and proper preservation of existing trees has proven to reduce the results of Urban Heat Island Effect. It is imperative that we undertake these initiatives that can help counter the Urban Heat Island Effect and all of its destructive consequences.

Perhaps the greatest advantage of reforestation initiatives is that it will reduce the likelihood of flooding occurring. As many of you may know, the city of Houston is often faced with the very destructive and harsh effects of flooding. The planting of new trees has shown to be effective in significantly reducing storm water runoff, which often leads to large scale flooding. This is an issue that is the greatest environmental challenge that many large cities in America face.

It is truly important that this body accepts the Jackson Lee Amendment to prohibit funds made available in this Act to be used to eliminate or restrict programs that are for the reforestation of urban areas. The effects of a lack of forestation that concern human beings such as air quality, rising temperatures, and flooding also are of concern to the survival and long-term viability of wildlife in the area. While some may hold the belief that the funds for the Interior are only intended for rural areas or National Parks, it is my belief that people in urban areas must also be able to reap the benefits that come from greater protection of natural resources such as trees. I am asking that this body help to protect these new initiatives on behalf of large cities throughout America that are in need of environmental relief. In the end, I feel that programs to plant and preserve trees in urban areas will make a difference in the type of environment that future generations of Americans will have to face.

□ 1815

The CHAIRMAN pro tempore (Mr. BASS). Without objection, the amendment is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE of Texas:

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

TITLE V—ADDITIONAL GENERAL PROVISIONS

SEC. 501. None of the funds made available in title I for ''Land Acquisition and State Assistance'' may be used to support the construction of the Gregory Lincoln Education Center located at 1101 Taft Street in the Fourth Ward of Houston, Texas.

Ms. JACKSON-LEE of Texas (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

Ms. JACKSON-LEE of Texas. Mr. Chairman, these are meaningful issues not only for Houston, but I believe this should be the philosophy of this body, and that is the preservation of historic artifacts and historic places.

This amendment goes directly to a very historic community that many people are aware of nationally because it is a site where the Emancipation Proclamation was delivered. It was a site called Freedman's Town where original ex-slaves lived. Now what we are attempting to do, and let me thank Gladyis House, one of my constituents who has never left Fourth Ward, we are trying to protect the grave sites of slaves and ex-slaves and soldiers who fought in the Civil War.

I think all of us would have a soft spot in our heart when it comes to recognizing if a Nation disrespects its history. What does a Nation stand on? Some would say if you forget your history, you are doomed to repeat your past or not benefit from the past.

My amendment would suggest that our American history is valuable and when we offer to construct new sites, we should not disrespect that history. In my district, an historic cemetery bearing the remains of famous African American Buffalo soldiers and other African Americans rests beneath a proposed Houston independent school district construction site. It is the area of Fourth Ward in Freedman's Town, an area almost 150 years old. In 1984, Freedman's Town was described as the largest and last remaining, intact freed slave community in the Nation.

It has great value this new school, and I applaud it. In fact, I support this new school; but what I want to see happen and the reason I am on the floor today is to secure at least the affirmation that under the Interior appropriation we have the sense it is important to preserve and not to destroy. I support the building of this school, but I also believe it is crucial that we respect the burial grounds of the deceased, and particularly the historic nature of this.

I ask my colleagues to join me in working through the conference and working with other appropriators to reinforce the value of historic preservation and the preserving of these artifacts and grave sites in the Fourth Ward in Houston, Texas, a 150-year community.

Mr. DICKS. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, one of the objectives of this bill is in the area of historic preservation through the Park Service and through the Department of Interior. This has been something that I have worked on in my own district.

I completely concur that we must protect our past, and especially when we have these very sensitive sites that are important to the people of that area and the country. I commend the gentlewoman for taking leadership on this issue, and pledge that we will continue to work with the gentlewoman on this matter.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the ranking member, and let me acknowledge the work that the Subcommittee on Interior and Related Agencies has done on this, and let me also thank State Senator Rodney Ellis and the Houston Independent School District for meetings that we are having, but the Federal Government must make this kind of national statement on the floor of the House embedded in the CONGRESSIONAL RECORD and the commitment to work forward, which is that we do have precious sites and they must be preserved.

I am hoping that we can find a way for this language to have some impact on those working in Houston so that no Federal funds will be able to be used to undermine these historic sites.

Mr. Chairman, I ask unanimous consent to withdraw this amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The amendment is withdrawn.

Mr. DEUTSCH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, there is an amendment at the desk that the gentleman from Florida (Mr. HASTINGS) originally offered. Unfortunately, the mother of the gentleman from Florida (Mr. HASTINGS) is in the hospital, and I know she is in the thoughts and prayers of all of us at this moment in time.

It is an amendment which I support, and I rise today to offer it. It will dedicate $500,000 for outreach and assistance in minority and disadvantaged communities affected by Everglades restoration. When Congress first passed the Comprehensive Everglades Restoration Plan, it affirmed its commitment to clean up Florida's Everglades. That plan included an outreach and assistance component, which is critical to the success of this restoration plan.

As the Department of Interior and Army Corps of Engineer began their outreach, the gentleman from Florida (Mr. HASTINGS) and I and others believed their approach left many in minority and underserved communities in the dark and out of the process.

Many constituents did not understand how the plan benefited their lives and few minority owned small businesses had any knowledge on how to access the contract dollars that are to be spent by the State and Federal Government in their backyard. When the House overwhelmingly passed the Water Resources Development Act last September, it authorized $3 million to be spent on outreach in minority and disadvantaged communities. This legislation, however, never became law, although the House's support for such efforts are clear.

The gentleman from Florida (Mr. HASTINGS) and others have worked tirelessly to encourage Interior and the Army Corps to incorporate issues of environmental justice into their plans, and focus outreach and assistance efforts on minority and disadvantaged communities. To their credit, they have done all they can. And their work,

combined with assistance from the office of the gentleman from Florida (Mr. HASTINGS) and others is starting to pay off.

Everglades restoration is the largest environmental cleanup in the history of our Nation. Our responsibility is to not only ensure that the restoration is a success, but also the process by which restoration occurs. The process of restoration and the restoration itself must be inclusive and equally benefit all communities, regardless of race, culture or socioeconomic status.

Our success is often limited by our resources. With $500,000 specifically dedicated to Everglades restoration outreach in disadvantaged communities, the Department of Interior can make a much more significant contribution to our efforts.

Mr. Chairman, I would like to engage both the chairman and the ranking member on this issue which is of crucial importance to the constituents of south Florida.

Mr. TAYLOR of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. DEUTSCH. I yield to the gentleman from North Carolina.

Mr. TAYLOR of North Carolina. Mr. Chairman, I thank the gentleman for his point of personal privilege and his comments on the commitment to the restoration of the Everglades. He and I have spoken about the importance of ensuring that all communities affected by this restoration project be involved in the decision-making process and understand how the project affects their lives.

I am committed to working with him and with this bill as it goes forward to conference to encourage the Department of Interior and the Army Corps of Engineers to be sensitive to the restoration outreach and assistance in minority and other disadvantaged communities. I thank the gentleman for bringing it to our attention.

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

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

Mr. DICKS. Mr. Chairman, I appreciate the gentleman making this speech, and we all regret the gentleman from Florida (Mr. HASTINGS) is unable to be here today. I know both of you have been very active on the Everglades issue, and we want to see that all parts of the community, the minority and disadvantaged community, are not left out, and we will continue to work with you and the gentleman from Florida (Mr. HASTINGS) to make sure this is accomplished.

Mr. DEUTSCH. Mr. Chairman, I thank the gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Washington (Mr. DICKS) for their kind words and commitment to work with the gentleman from Florida (Mr. HASTINGS) and myself. I believe the little amount for which we are asking will go a long way.

Mr. Chairman, I ask unanimous consent that my amendment be withdrawn and express my desire to work with the chairman and ranking member of the committee when this bill goes to conference.

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. DEUTSCH) did not offer his amendment, so there is no need to have a unanimous consent request to withdraw it.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN pro tempore. Pursuant to clause 6 of rule XVII, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 18 offered by the gentleman from New York (Mr. HINCHEY); amendment offered by the gentleman from Vermont (Mr. SANDERS); amendment No. 4 offered by the gentleman from New Jersey (Mr. HOLT).

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic votes will be conducted as 5-minute votes.

AMENDMENT NO. 18 OFFERED BY MR. HINCHEY

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. HINCHEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 215, not voting 16, as follows:

[Roll No. 261]

AYES—202

Ackerman
Allen
Andrews
Baird
Baldwin
Bass
Becerra
Bell
Berkley
Biggert
Bishop (NY)
Blumenauer
Boucher
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Cardin
Carson (IN)
Case
Castle
Chandler
Clay
Clyburn
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Doyle
Ehlers
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Ford
Frank (MA)
Frelinghuysen
Gephardt
Gerlach
Gonzalez
Goode
Gordon
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Harman
Hill
Hinchey
Hinojosa
Hoeffel
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kind
Kirk
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Platts
Price (NC)
Pryce (OH)
Rahall
Ramstad
Rangel
Rodriguez
Ros-Lehtinen
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (VA)
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (NJ)
Snyder
Solis
Spratt
Stark
Strickland
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Tiberi
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Wexler
Whitfield
Woolsey
Wu
Wynn

NOES—215

Abercrombie
Aderholt
Akin
Alexander
Baca
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boyd
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson (OK)
Carter
Chabot
Chocola
Coble
Cole
Collins
Cooper
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Emerson
Everett
Feeney
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frost
Gallegly
Garrett (NJ)
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Goss
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kline
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Osborne
Ose
Otter
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Putnam
Quinn
Radanovich
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Schrock
Scott (GA)
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simpson
Smith (TX)
Souder
Stearns
Stenholm

Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Toomey
Turner (OH)
Turner (TX)
Vitter
Walden (OR)
Walsh
Weldon (FL)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—16

Bereuter
Berman
Conyers
Cox
DeMint
Hastings (FL)
Isakson
Kilpatrick
Kingston
Knollenberg
Lipinski
Nethercutt
Oxley
Reyes
Smith (MI)
Smith (WA)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

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

□ 1849

Ms. EDDIE BERNICE JOHNSON of Texas and Messrs. HOEKSTRA, GUTKNECHT, BARTLETT of Maryland, and CHABOT changed their vote from ''aye'' to ''no.''

Messrs. SAXTON, JOHNSON of Illinois, WAMP, HINOJOSA, and MCDERMOTT changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT, AS MODIFIED, OFFERED BY MR. SANDERS

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on the amendment, as modified, offered by the gentleman from Vermont (Mr. SANDERS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 152, noes 267, not voting 14, as follows:

[Roll No. 262]

AYES—152

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldwin
Becerra
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capps
Capuano
Carson (IN)
Chandler
Clay
Clyburn
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
DeFazio
Delahunt
DeLauro
Doggett
Doyle
Emanuel
Engel
English
Eshoo
Evans
Farr
Fattah
Filner
Forbes
Frank (MA)
Gephardt
Goode
Goodlatte
Green (TX)
Greenwood
Grijalva
Gutierrez
Herseth
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kelly
Kennedy (RI)
Kildee
Kind
Kleczka
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Markey
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Paul
Payne
Pelosi
Peterson (MN)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Scott (VA)
Simmons
Skelton
Slaughter
Solis
Stark
Strickland
Stupak
Tauscher
Taylor (MS)
Terry
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (NM)
Velázquez
Visclosky
Waters
Watson
Watt
Weiner
Wexler
Woolsey
Wu

NOES—267

Aderholt
Akin
Alexander
Allen
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (TN)
Davis, Tom
Deal (GA)
DeGette
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Gordon
Goss
Granger
Graves
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hobson
Hoekstra
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Israel
Issa
Istook
Jefferson
Jenkins
John
Johnson, Sam
Keller
Kennedy (MN)
King (IA)
King (NY)
Kirk
Kline
Kolbe
LaHood
Lampson
Lantos
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Lynch
Majette
Manzullo
Marshall
Matheson
McCarthy (MO)
McCotter
McCrery
McHugh
McInnis
McKeon
Menendez
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pastor
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Snyder
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Udall (CO)
Upton
Van Hollen
Vitter
Walden (OR)
Walsh
Wamp
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—14

Bereuter
Berman
Conyers
DeMint
Hastings (FL)
Isakson
Kilpatrick
Kingston
Knollenberg
Lipinski
Nethercutt
Reyes
Serrano
Smith (WA)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1857

Mr. SCHIFF and Mr. DEUTSCH changed their vote from ''aye'' to ''no.''

So the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 4 OFFERED BY MR. HOLT

The CHAIRMAN pro tempore. The pending business is the demand for a recorded vote on amendment No. 4 offered by the gentleman from New Jersey (Mr. HOLT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

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

The vote was taken by electronic device, and there were—ayes 198, noes 224, not voting 11, as follows:

[Roll No. 263]

AYES—198

Abercrombie
Ackerman
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berry
Biggert
Bishop (NY)
Blumenauer
Bono
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Capito
Capps
Capuano
Cardin
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chandler
Clay
Clyburn
Cooper
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Ehlers
Emanuel
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Foley
Ford
Frank (MA)
Frost
Garrett (NJ)
Gephardt
Gilchrest
Gillmor
Gonzalez

| | | |
|---|---|---|
| Gordon | Lofgren | Rush |
| Goss | Lowey | Ryan (OH) |
| Green (TX) | Lynch | Sabo |
| Greenwood | Majette | Sánchez, Linda T. |
| Grijalva | Maloney | Saxton |
| Gutierrez | Markey | Schakowsky |
| Harman | Marshall | Schiff |
| Hill | Matsui | Scott (GA) |
| Hinchey | McCarthy (MO) | Scott (VA) |
| Hinojosa | McCarthy (NY) | Serrano |
| Hoeffel | McCollum | Shays |
| Holden | McDermott | Sherman |
| Holt | McGovern | Simmons |
| Honda | McIntyre | Skelton |
| Hooley (OR) | McNulty | Slaughter |
| Hoyer | Meehan | Smith (NJ) |
| Inslee | Meek (FL) | Snyder |
| Israel | Meeks (NY) | Solis |
| Jackson (IL) | Menendez | Souder |
| Jackson-Lee (TX) | Millender-McDonald | Spratt |
| Jefferson | Miller (NC) | Stark |
| Johnson (CT) | Miller, George | Strickland |
| Johnson (IL) | Mollohan | Tauscher |
| Johnson, E. B. | Moore | Thompson (CA) |
| Jones (OH) | Moran (KS) | Thompson (MS) |
| Kanjorski | Moran (VA) | Tierney |
| Kaptur | Nadler | Towns |
| Kelly | Napolitano | Turner (TX) |
| Kennedy (RI) | Neal (MA) | Udall (CO) |
| Kildee | Obey | Udall (NM) |
| Kirk | Olver | Van Hollen |
| Kleczka | Owens | Velázquez |
| Kucinich | Pallone | Visclosky |
| Lampson | Pascrell | Walsh |
| Langevin | Pastor | Watson |
| Lantos | Payne | Watt |
| Larsen (WA) | Pelosi | Waxman |
| Larson (CT) | Price (NC) | Weiner |
| Leach | Rahall | Wexler |
| Lee | Rangel | Whitfield |
| Levin | Rodriguez | Woolsey |
| Lewis (GA) | Rothman | Wu |
| LoBiondo | Roybal-Allard | Wynn |

NOES—224

| | | |
|---|---|---|
| Aderholt | Deal (GA) | King (IA) |
| Akin | DeLay | King (NY) |
| Alexander | Diaz-Balart, L. | Kingston |
| Allen | Diaz-Balart, M. | Kline |
| Bachus | Doolittle | Knollenberg |
| Baker | Dreier | Kolbe |
| Ballenger | Duncan | LaHood |
| Barrett (SC) | Dunn | Latham |
| Bartlett (MD) | Emerson | LaTourette |
| Barton (TX) | Everett | Lewis (CA) |
| Bass | Feeney | Lewis (KY) |
| Beauprez | Filner | Linder |
| Bilirakis | Flake | Lucas (KY) |
| Bishop (GA) | Forbes | Lucas (OK) |
| Bishop (UT) | Fossella | Manzullo |
| Blackburn | Franks (AZ) | Matheson |
| Blunt | Frelinghuysen | McCotter |
| Boehlert | Gallegly | McCrery |
| Boehner | Gerlach | McHugh |
| Bonilla | Gibbons | McInnis |
| Bonner | Gingrey | McKeon |
| Boozman | Goode | Mica |
| Boswell | Goodlatte | Michaud |
| Boyd | Granger | Miller (FL) |
| Bradley (NH) | Graves | Miller (MI) |
| Brady (TX) | Green (WI) | Miller, Gary |
| Brown (SC) | Gutknecht | Murphy |
| Brown-Waite, Ginny | Hall | Murtha |
| Burgess | Harris | Musgrave |
| Burns | Hart | Myrick |
| Burr | Hastings (WA) | Neugebauer |
| Burton (IN) | Hayes | Ney |
| Buyer | Hayworth | Northup |
| Calvert | Hefley | Norwood |
| Camp | Hensarling | Nunes |
| Cannon | Herger | Nussle |
| Cantor | Herseth | Oberstar |
| Cardoza | Hobson | Ortiz |
| Carter | Hoekstra | Osborne |
| Chocola | Hostettler | Ose |
| Coble | Houghton | Otter |
| Cole | Hulshof | Oxley |
| Collins | Hunter | Paul |
| Cox | Hyde | Pearce |
| Cramer | Issa | Pence |
| Crane | Istook | Peterson (MN) |
| Crenshaw | Jenkins | Peterson (PA) |
| Cubin | John | Petri |
| Culberson | Johnson, Sam | Pickering |
| Cunningham | Jones (NC) | Pitts |
| Davis, Jo Ann | Keller | Platts |
| Davis, Tom | Kennedy (MN) | Pombo |
| | Kind | Pomeroy |
| Porter | Sanders | Taylor (NC) |
| Portman | Sandlin | Terry |
| Pryce (OH) | Schrock | Thomas |
| Putnam | Sensenbrenner | Thornberry |
| Quinn | Sessions | Tiahrt |
| Radanovich | Shadegg | Tiberi |
| Ramstad | Shaw | Toomey |
| Regula | Sherwood | Turner (OH) |
| Rehberg | Shimkus | Upton |
| Renzi | Shuster | Vitter |
| Reynolds | Simpson | Walden (OR) |
| Rogers (AL) | Smith (MI) | Wamp |
| Rogers (KY) | Smith (TX) | Waters |
| Rogers (MI) | Stearns | Weldon (FL) |
| Rohrabacher | Stenholm | Weldon (PA) |
| Ros-Lehtinen | Stupak | Weller |
| Ross | Sullivan | Wicker |
| Royce | Sweeney | Wilson (NM) |
| Ruppersberger | Tancredo | Wilson (SC) |
| Ryan (WI) | Tanner | Wolf |
| Ryun (KS) | Tauzin | Young (AK) |
| Sanchez, Loretta | Taylor (MS) | Young (FL) |

NOT VOTING—11

| | | |
|---|---|---|
| Bereuter | Hastings (FL) | Nethercutt |
| Berman | Isakson | Reyes |
| Conyers | Kilpatrick | Smith (WA) |
| DeMint | Lipinski | |

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. BASS) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1905

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. UDALL of Colorado. Mr. Chairman, this bill is important for everyone, because all Americans have a stake in the work of the agencies that if funds. But it is especially important for Coloradans and the residents of the other Western States that have large Native American populations and that are so immediately and directly affected by the management of the Federal lands.

So, I would like to be able to support the bill—but, regretfully, the bill falls too far short of what is needed for me to be able to do so. My opposition to the bill does not reflect any lack of respect of Chairman TAYLOR or for our colleague from Washington, Mr. DICKS, the distinguished and able ranking member of the subcommittee. I think that in general they have done the best they could with the very limited allocation of funds that was made available to them.

In particular, I think they should be commended for their efforts to provide funds for reducing the hazardous fuels that have built up in our forests and for responding to wildfires that threaten so many western communities. However, in many other areas the bill falls far short of what I think should be acceptable. It does not provide enough for the essential operations of the National Park System or the other parts of the Federal lands that provide recreational opportunities for so many people, as well as supplying the fresh water and sound habitats that are essential for fish and wildlife.

And it conspicuously fails to make the necessary investments, including land acquisitions and other steps, needed to respond to the increased stress on open spaces and natural resources from the rapid and ongoing population growth in Colorado and other States. This failure breaks the promises of the Land and Water Conservation Fund Act and flies in the face of the more recent agreement between the appropriations committee and the large majority that voted for the Conservation and Reinvestment Act sponsored by our colleague from Alaska, Mr. YOUNG. And, even worse, it also breaks faith with the future and with the future generations that would be the beneficiaries of those investments.

For example, we should be providing funds to complete the acquisition of lands in the Beaver Brook watershed that the city of Golden, Colorado, has agreed to sell for inclusion in the National Forest System. We also should provide funds to complete the acquisition of the lands that are to become part of the Great Sand Dunes National Park and Preserve and to constitute the new Baca National Wildlife Refuge, as well as to complete other needed acquisitions in other parts of Colorado. But, instead, the bill includes no funds at all for these or any other acquisition projects—not only in Colorado but anywhere else. This is not acceptable.

Mr. Chairman, I recognize that today is not the end of the story. The Senate still has to act on this appropriations bill, and I expect that a revised version of the legislation will come before the House at a later date. My hope is that the result of that progress will be a bill that is sufficiently improved that it will deserve the support of the entire body. For the time being, however, I cannot support this bill and will vote against it.

Mr. HONDA. Mr. Chairman, I rise to express my steadfast support for the DeFazio/Turner Amendment, which will allow the Transportation Security Administration to properly staff security operations at airports this summer.

Airline industry experts expect this summer to be the busiest travel period in the last four years. 65 million passengers are projected to travel through U.S. airports each month—a 12 percent increase over last year. Instead of giving TSA the flexibility necessary to accommodate this growth, Congress has imposed a cap on the number of security screeners TSA can deploy. This restriction threatens to delay passengers and compromise security.

As thousands of travelers already know, too few screeners means delays for airport passengers, a problem that will only worsen during the busy summer travel season. In traveling through Mineta San Jose International Airport each week, I regularly witness hour-long waits at both passenger and baggage screening lanes that are understaffed due to GSA personnel shortages. In fact, at San Jose Airport, TSA is currently 60 full time employees below the authorized FTE level of 356. And in a disturbing development, TSA reduced the authorized level this year from 423 to 356—making authorized staffing levels more commensurate with actual staffing levels, but more disproportionate with proper staffing levels. San Jose Airport officials assert that 500 FTEs would more accurately reflect the security needs at the airport.

Airports are not just transportation gateways—they also facilitate economic growth. As this Nation recovers from a devastating recession, the Federal cap limiting TSA staff levels must not threaten our Nation's mobility and economic growth. Let's untie the hand behind TSA's back so it can fight the war on terrorism without undue delay to American travelers or restraints on regional economic growth. I urge my colleagues to support the DeFazio Turner Amendment.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I am here today to voice my opposition to the 2005 Interior Appropriations bill because

I feel this is a right-wing attack on so many of social and environmental programs that desperately need our assistance now.

The bill provides $19.5 billion in discretionary funding for FY 2005. The funds appropriated in the bill are $220 million below President Bush's budget request and $257 million below the levels enacted for FY 2004. Due to the massive GOP tax cuts enacted over the last 3 years, this bill was given an unrealistically low allocation by the House GOP leadership, and therefore numerous key programs are underfunded by the GOP bill—including national parks and conservation programs.

The GOP bill severely underfunds national parks, providing $1.69 billion for the operation of the national parks, which is exactly the Administration's request. Our national park system is in crisis—with the underfunding of the national park system well-documented in several recent studies. Indeed, under the Administration's budget, 241 of the 388 park units in the national park system will actually receive LESS money in 2005 than they received in 2003—despite the fact that more and more visitors are coming to the national parks. Some of the national parks receiving less funding in 2005 than they received in 2003 include the Grand Canyon, Yosemite, Great Smoky Mountains, Shenandoah, Sequoia, Pinnacles, Zion, Redwood, and Little Bighorn.

The GOP Interior bill breaks a bipartisan conservation funding agreement made in 2000. Like last year's Interior Appropriations bill, this GOP bill completely abandons the historic, bipartisan conservation funding a agreement that was reached in 2000 and included in the FY 2001 Interior Appropriations Act (PL 106–291). This landmark agreement reached in 2000 as a bipartisan commitment for $12 billion in funding for land and water conservation funding over the next six years. This six-year funding commitment was to be used for preserving the great lands and places of America, for saving endangered and threatened species, and for helping States and local communities with their conservation and recreation programs through creative partnerships.

In my district, one program that is going to particularly suffer is Opera in the Heights. This program, which brings music appreciation and education to low income communities, needed only $100,000 to ensure the successful completion of the most critical improvements to Lambert Hall. Opera in the Heights faces a critical time of transition. The company is experiencing phenomenal growth in national reputation and attendance and has, for all practical purposes, outgrown its home. Such success stories as these must be nourished, and not squashed by a partisan bill in which the authors seek to further their own interests.

Right now, Opera in the Heights has a charming structure from 1923, as close to a small European opera house as anything available in this country. The opera is now committed in staying in Lambert Hall and working with the owners of the building to adapt the space for future years of use. Toward that goal, they must address the outdated seating, plumbing, electricity, and ADA accessibility if this great historic building can continue to introduce live classical operas, musical concerts and other theater productions to new audiences.

The main activity occurring in this space is performances provided by small to mid-sized non-profit arts organizations. For eighty years, the venue has been home to Opera in the Heights, its primary tenant, producing four fully staged, traditional operas each season in pursuit of its mission to provide a stage for emerging opera performers and to bring affordable opera to the region.

Performing arts of great national significance, primarily through Opera in the Heights, occurs throughout the year in this historic building on the national register. Just as talented young athletes hone their skills on farm teams, young singers and musicians must have the opportunity to perform major operatic roles in regional companies like Opera in the Heights. Young talented singers from graduate schools across the country come to audition for roles. Singers have come in from as many as 22 States for one audition weekend hoping for the chance to get to learn a lead role; New York, Virginia, Florida, California, Indiana, and New Jersey will be represented in this season's casts. One of the reasons singers choose to come to Opera in the Heights is the reputation of their Maestro, William Weibel, who retired to Houston after 35 years conducting opera at San Francisco, Chicago Lyric, and The Met. Singers love the opportunity to learn from his wealth of personal experience in how a role should be sung.

Without the experiences provided by companies like Opera in the Heights, singers are forced to move to Germany, where many small opera houses offer hundreds of singers each year the chance to learn the lead roles required by the larger US companies. Most people are unaware that US regional opera companies do not allow singers to even audition for a role if they haven't already performed somewhere else. Opera in the Heights is happy to be the ''somewhere else.''

Helping improve Lambert Hall would contribute to continued preservation of examples of great architecture, as recognized by the National Historic Register. Lambert Hall's fine acoustics and enormous stained glass windows make it a venue of choice for audience members from all over the State, as well as family members who fly in to hear the singers we cast from all over the country. Eight times a year (twice for each opera), Lambert Hall is filled with seniors from assisted living centers and recreation centers, coming to hear the one-hour versions of each opera for just $5. Admission for and length of the program are perfect fits with these groups, many of whom are disabled and can't sit for long periods of time.

It pains me to see that this Interior Appropriations bill strikes out programs such as these; these pillars of our community must be cherished and maintained.

Mr. UDALL of Colorado. Mr. Chairman, I considered offering an amendment dealing with RS 2477 claims that was printed in the RECORD. I will not offer that amendment today, but I do want to briefly explain the problem that it was intended to address.

Last year, the House adopted a similar—not identical, but similar—amendment. Unfortunately, it was dropped in conference. So, the original need for an amendment remains. The need is to protect not just Federal lands but also private property and the public interest. All three are threatened by the plans of the Interior Department to go ahead with back-room land deals that fly in the face of Congressional intent.

The Interior Department would do this by issuing ''disclaimers of interest''—documents like deeds that cede land—under new rules that allow the disclaimers to be issued to applicants who wouldn't have been eligible before. And the Interior Department has announced it is ready to give those ''disclaimers'' to parties seeking them in order to clear the way for building roads under an 1866 law. That law—one of the 19th-century laws to promote settlement in the West—granted rights-of-way ''for the construction of highways'' on Federal lands.

It later became section 2477 of the Revised Statues—or RS 2477. It was repealed in 1976, but the repeal did not affect existing rights, and did not set a deadline for claiming those rights. So, there is no way of telling how many claims might be made or what lands could be affected.

RS 2477 claims can involve not just Federal lands but also lands that once were Federal but that now belong to other owners. That includes millions of Acres that now are ranches or farms, or residential subdivisions, or single-family homes, or private cabins in the mountains like ones owned by some of my constituents. Also at risk are millions of acres in the National Parks, National Forests, National Wildlife Refuges, National Monuments, Wild and Scenic Rivers, as well as wilderness areas and areas that deserve protection and as wilderness areas.

This problem is not new, but it is very serious. It needs to be resolved—but not the way the Interior Department wants to resolve it.

What the Interior Department wants is to negotiate in secret and then issue the ''disclaimers'' I described. They started that process with the State of Utah. And other parties—including the current Administration in Colorado—are starting to ask for deals of their own. That is the wrong way to resolve this.

What is needed is for Congress to settle it with new legislation—which is what Congress told the Clinton administration when they tried to handle it administratively. To make sure they got the message, Congress passed a law that says any new RS 2477 rules must be authorized by Congress.

That law is still on the books—and repeating that message would be the purpose of the amendment. The Administration says that message is irrelevant. They say they can go forward, in the face of that law passed by Congress. Others disagree. For starters, a recent GAO opinion says that the Interior Department's agreement with Utah violates that law. The Interior Department says they think GAO is wrong about that.

But whether GAO is right or wrong, one thing is for sure—if the Interior Department goes ahead on its present course, it is headed for nothing but more litigation. The best way to resolve this issue is by enacting new legislation, after public hearings and open debate.

That's why I have introduced a bill—H.R. 1639—to do just that. My bill would set a deadline—four more years—for filing RS 2477 claims. It would establish a fair, open administrative process for handling those claims. And it would set another deadline for any lawsuit challenging the result of that administrative process.

Maybe my bill could be improved, and some of our colleagues may want to propose their own ideas—that is the legislative process. And that is how this issue should be resolved, not by backroom deals or clever maneuvers to try to side-step Congress. Instead of trying to

side-step Congress, the Administration should work with the Resources Committee and the Congress.

Mr. Chairman, I am not going to impose on the time of the House by calling for a vote on this amendment today. Still, the problem has not gone away. Congress should address it—and sooner, or later, we will have to address it. For the moment, however, Mr. Chairman, I will continue to seek to have the Resources Committee address the issue.

I yield back any time I have remaining.

Mr. STARK. Mr. Chairman, I rise in opposition to H.R. 4568, the Interior Appropriations bill.

This legislation shortchanges our Nation's environment and ignores the important priority Americans place on protecting our pristine lands, parks and open space. Republicans have broken a basic commitment to conservation. Back in 2000, Democrats and Republicans agreed to provide $12 billion over six years for land and water conservation. These are resources dedicated to preserving lands and wilderness, protecting wetlands and wildlife, and creating parks and open space in local communities.

Unfortunately, this bill breaks that promise. Funding for conservation efforts in this bill is 50 percent below what we agreed upon in 2000. In fact, there is no money provided to acquire and set aside new lands and open space. This is extremely short-sighted considering our growing problems with urban sprawl and Americans' desire to preserve natural areas. Indeed it is downright cynical when you consider Republican efforts to open up natural lands for drilling and other harmful development.

Most tragic of all, this bill ignores the jewels that Americans treasure most: our national parks. For years, the National Park System has been overburdened by a maintenance backlog of decaying infrastructure, trails, and roads. Our parks have been forced to get by with insufficient resources for their operations. As more and more Americans flock to our national parks each year, this will mean diminished public access and less opportunity for recreation at our parks.

This bill's paltry funding does little if nothing to help our parks or stop their decline. California is home to some of the most popular national parks, like Yosemite, Sequoia and the Redwoods. We should be increasing our funding of these national treasures. Yet under this bill, funding will go down. The same is true for the Grand Canyon and close to 250 parks throughout the country.

This is a real shame. Americans love their National Parks and consistently and repeatedly ask their leaders to fully care for these treasures. We owe it to our children and future generations to do just that.

I urge my colleagues to vote down this insufficient and irresponsible bill. The environment—and the American people—deserve better.

Mr. LEWIS of California. Mr. Chairman, it has come to my attention that the Interior Appropriations Subcommittee was unable to include '05 funding for a system of recreational trails surrounding Diamond Valley Lake, as authorized in PL 106–500.

There are many constituents in my District who are counting on being able to enjoy these trails with their families and friends as a significant new recreational facility in one of California's fastest-growing communities.

I would like to ask my friend, the distinguished Chairman of the Interior subcommittee, if he would consider giving this project additional consideration during the conference on this fiscal 2005 legislation, particularly if the Senate is able to include this matter in its bill?

On behalf of the hard-working people of Riverside County, California, I thank the gentlemen for his consideration.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I rise to thank Chairman ROGERS and Ranking Member SABO for their hard work on this legislation. It is an immense challenge to be in charge of the funding of this Nation's homeland security . . . and they have done the best that they can with this bill.

In particular, I want to raise an issue that is of concern to me: The need to address and integrate psychological resiliency into our national readiness plans. Building psychological resilience is one of the most effective counter-terrorism strategies we could have, because it fights terrorism on the real battleground—the psyches of the American people.

The Israelis have learned this and see resilience development as a key component of counter-terrorism. Referring to terrorism, former New York Mayor Rudy Giuliani said: ''This is all a question of human psychology. It is all a question of understanding how to manage fear. The most important thing to explain to people about managing fear is that courage is not the absence of fear, it is the management of it.''

In Full Committee I offered an amendment to call for a report between the Institutes of Medicine and the Department of Homeland Security on resilience development and how this resiliency can be harmed by the ways in which the media report on terrorism, or can be harmed by the way terrorist threat information is communicated to the public.

Although the Department is funding some University-based grants in this area, only one is specifically geared toward the ''behavioral'' aspects associated with terrorism. It is my hope that I can work with the Chairman and Ranking Member to address this issue further and to build on the work that they are doing and to expand outside the arena of individual Universities.

The CHAIRMAN pro tempore. The Clerk will read the last two lines of the bill.

The Clerk read as follows:

This Act may be cited as the ''Department of the Interior and Related Agencies Appropriations Act, 2005''.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTINGS of Washington) having assumed the chair, Mr. BASS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4568) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2005, and for other purposes, pursuant to House Resolution 674, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 334, nays 86, not voting 13, as follows:

[Roll No. 264]

YEAS—334

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
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
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Etheridge
Everett
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Issa
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Marshall
Matsui
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Mica
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick

| | | |
|---|---|---|
| Napolitano | Reynolds | Stenholm |
| Neal (MA) | Rodriguez | Stupak |
| Neugebauer | Rogers (AL) | Sweeney |
| Ney | Rogers (KY) | Tancredo |
| Northup | Rogers (MI) | Tauscher |
| Norwood | Ros-Lehtinen | Tauzin |
| Nunes | Ross | Taylor (MS) |
| Nussle | Rothman | Taylor (NC) |
| Oberstar | Roybal-Allard | Terry |
| Olver | Ruppersberger | Thomas |
| Ortiz | Rush | Thompson (CA) |
| Osborne | Ryan (OH) | Thompson (MS) |
| Ose | Ryan (WI) | Thornberry |
| Otter | Ryun (KS) | Tiberi |
| Oxley | Sabo | Towns |
| Pastor | Sanchez, Loretta | Turner (OH) |
| Pearce | Sandlin | Turner (TX) |
| Pelosi | Saxton | Udall (NM) |
| Pence | Scott (GA) | Upton |
| Peterson (MN) | Scott (VA) | Visclosky |
| Peterson (PA) | Serrano | Vitter |
| Pickering | Sessions | Walden (OR) |
| Pitts | Shadegg | Walsh |
| Platts | Shaw | Wamp |
| Pombo | Sherman | Watson |
| Pomeroy | Sherwood | Watt |
| Porter | Shimkus | Weldon (FL) |
| Portman | Shuster | Weldon (PA) |
| Price (NC) | Simmons | Weller |
| Pryce (OH) | Simpson | Wexler |
| Putnam | Skelton | Whitfield |
| Quinn | Slaughter | Wicker |
| Radanovich | Smith (MI) | Wilson (NM) |
| Ramstad | Smith (NJ) | Wilson (SC) |
| Rangel | Smith (TX) | Wolf |
| Regula | Snyder | Wynn |
| Rehberg | Souder | Young (AK) |
| Renzi | Spratt | Young (FL) |

NAYS—86

| | | |
|---|---|---|
| Allen | Hostettler | Petri |
| Andrews | Israel | Rahall |
| Baldwin | Jackson (IL) | Rohrabacher |
| Becerra | Jackson-Lee (TX) | Royce |
| Berry | Kind | Sánchez, Linda T. |
| Bishop (NY) | King (IA) | Sanders |
| Blumenauer | Kleczka | Schakowsky |
| Boswell | Kucinich | Schiff |
| Brown (OH) | Larson (CT) | Sensenbrenner |
| Capps | Lee | Shays |
| Capuano | Lewis (GA) | Solis |
| Cooper | Lofgren | Stark |
| DeGette | Lynch | Stearns |
| Delahunt | Majette | Strickland |
| DeLauro | Markey | Sullivan |
| Dingell | Matheson | Tanner |
| Emanuel | McCarthy (MO) | Tiahrt |
| Eshoo | McGovern | Tierney |
| Evans | Menendez | Toomey |
| Farr | Michaud | Udall (CO) |
| Flake | Miller (FL) | Van Hollen |
| Frank (MA) | Miller, George | Velázquez |
| Franks (AZ) | Nadler | Waters |
| Grijalva | Obey | Waxman |
| Gutierrez | Owens | Weiner |
| Hensarling | Pallone | Woolsey |
| Hinchey | Pascrell | Wu |
| Hoeffel | Paul | |
| Holt | Payne | |
| Honda | | |

NOT VOTING—13

| | | |
|---|---|---|
| Bereuter | Isakson | Reyes |
| Berman | Jones (NC) | Schrock |
| Conyers | Kilpatrick | Smith (WA) |
| DeMint | Lipinski | |
| Hastings (FL) | Nethercutt | |

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1923

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ROGERS of Kentucky. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4567, and that I may include extraneous and tabular material.

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

There was no objection.

## DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to House Resolution 675 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4567.

□ 1923

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4567) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes, with Mr. GILLMOR in the chair.

The Clerk read the title of the bill.

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

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

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

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

Mr. Chairman, I am pleased to be here to present to the body the fiscal year 2005 Homeland Security Appropriations bill, the second such bill ever written by the Committee on Appropriations.

The bill before us provides $32 billion for the Department of Homeland Security. That is $1.1 billion above the current year, and $496 million above the President's request.

Mr. Chairman, it is very hard to believe that the Department was created just a year ago. There have been growing pains, but tremendous progress has been made. This is not an easy task to get our arms around, but I think the Department is succeeding, and their success is significant.

In just one year, for example, the Department has inventoried the Nation's critical infrastructure to include more than 33,000 facilities. The Department is identifying and reducing vulnerabilities at chemical facilities, nuclear power plants, national monuments, subway and light rail systems, and commercial sites. The Department has streamlined the process used to get the money out to first responders, setting up a one-stop shop. They continue to work with State and local governments to identify choke points so that money can flow quickly and get where it is needed. The Department regularly communicates threat information with State and local officials. Last year, the Department issued 41 warnings and advisory notices to State and local entities.

The Department established a two-way communications system with State and local homeland security personnel. This system was recently used in Kentucky when there was a smallpox scare in the small rural town of London. The information was quickly passed on to the Department and other Federal officials and appropriate action was immediately taken. The system works.

The Department has increased their presence to more than 38 ports in 18 different countries, prescreening all high-risk cargo before it reaches our shores. The Department has established three Homeland Security Centers of Excellence, created standards for first responder equipment, and installed and operated sensor systems in 30 high-risk cities to detect biohazards. Those are just some things that they are doing.

There is no doubt, Mr. Chairman, that more work needs to be done, but the Department is clearly on the right track, identifying our vulnerabilities, matching them to threats, and putting out specific guidance on ways to protect our homeland.

Fiscal year 2005 will be the second full year of operation for the Department. This bill continues the successes of the past year and includes initiatives to move us closer to our goals of prevention, preparedness, and response.

The bill provides $4.1 billion for our first responders, the first line of defense. These brave men and women are the first on the scene whenever there might be a problem. They are the backbone of our communities.

Since 9/11, this Congress has provided $26.7 billion for these first responders. Those dollars have helped train more than 285,000 police, fire, and emergency medical personnel around the Nation to respond to acts of terrorism, including weapons of mass destruction. No community in America, whether urban or rural, is immune from acts of terrorism. This bill strikes a balance between funding high-risk communities and providing support for States and localities, striving to achieve and maintain minimum levels of preparedness. For 2005 we propose an additional $1.175 billion to improve security in our urban and most populated areas.

The United States is the most open nation in the world. Our borders are the gateway for billions of dollars in commercial trade and millions of visitors. However, these same borders are potential entry points for terrorists and weapons of mass destruction. This 2005 bill provides $9.8 billion for border protection and related activities. This funding will continue our efforts to create smart borders that keep terrorists out of America without stemming

the flow of commerce or legitimate travel. Funding will be used to operate and expand the container security initiative. Funding will be used to design and to identify, target, and search high-risk cargo before it enters our ports. We also fund advanced inspection technologies, including personal radiation monitors and detectors.

This legislation fully supports security for all modes of transportation, providing $5.7 billion to the Transportation Security Administration and Federal Air Marshals.

Since September 11, Congress has provided $14.3 billion for aviation security. Funding has been used for a host of purposes, including securing all of the cockpit doors on commercial flights, installing new technically advanced metal detectors at the airports, searching checked bags for explosives, and federalizing the screener workforce. We continue our commitment to aviation security in 2005 and fully fund the baggage and passenger screening efforts, as well as new technology to improve screening procedures at America's airports and giving Federal Air Marshals the funds they need to cover high-threat domestic and international flights.

The bill also includes $118 million for air cargo screening which will support the hiring of 100 new air cargo inspectors, development of new cargo screening technology, and expansion of canine enforcement teams. The bill also requires TSA to double the number of cargo inspections on passenger aircraft.

The bill funds several initiatives for rail security, providing $111 million for grants to high-threat systems, technology to screen passengers and baggage, and furthering intelligence-related activities.

□ 1930

Security assessments for the 14 subway systems and 278 light rail systems have been completed. And this will continue in 2005.

Additional funds are also provided for radiological, political, chemical and high explosives countermeasures to both rail and transit systems. There is $1.1 billion, Mr. Chairman, for the science and technology directorate. We are targeting funds for research, development, and the discovery of new technologies that can and are being used in our cities and towns today, including environmental sensors to detect biohazards and nuclear detection technology for cargo.

We also continue to fully fund research and development for antimissile devices for commercial aircraft, the so-called ''man pads.'' The bill includes $855 million for information analysis and infrastructure protection. These funds will be used to complete an inventory of critical infrastructure, enhance current communication between Federal, State and local homeland security personnel, and assist local communities as they put protective measures in place. Funds will be used to train State homeland security advisors and local law enforcement on best practices for protecting their critical sites.

Finally, Mr. Chairman, this bill fully supports the traditional missions and operations of agencies that were merged into the Department including the Coast Guard, the Secret Service, and, of course, disaster relief. I believe, Mr. Chairman, we have produced the right mix for this Department. It builds upon the progress of the past year and furthers the protection of our beloved homeland.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON APPROPRIATIONS,
*Washington, DC, June 15, 2004.*

Hon. BILL THOMAS,
*Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.*

DEAR CHAIRMAN THOMAS: Thank you for your letter regarding H.R. 4567, the Department of Homeland Security Appropriations Act for fiscal year 2005. As you have noted, the bill is scheduled for floor consideration on Wednesday, June 16, 2004. I appreciate your agreement to expedite the passage of this legislation although it contains a provision involving overtime pay that falls within the Committee's jurisdiction. I appreciate your decision to forgo further action on the bill and acknowledge that it will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation.

Our committees have worked closely together on this important initiative, and I am very pleased we are continuing that cooperation. I appreciate your helping us to move this legislation quickly to the floor. Finally, I will include in the Congressional Record a copy of our exchange of letters on this matter. Thank you for your assistance and cooperation. We look forward to working with you in the future.

Best regards,

HAROLD ROGERS,
*Chairman.*

---

HOUSE OF REPRESENTATIVES,
COMMITEEE ON WAYS AND MEANS,
*Washington, DC, June 15, 2004.*

Hon. HAROLD ROGERS,
*Chairman, Subcommittee on Homeland Security, Committee on Appropriations, Washington, DC.*

DEAR CHAIRMAN ROGERS: I am writing concerning H.R. 4567, the Department of Homeland Security Appropriations Act for Fiscal Year 2005 which is scheduled for floor consideration on Wednesday, June 16, 2004.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning customs and Title 19, U.S.C. 267(c)(1). There is a provision within the bill which involves overtime pay for U.S. Customs and Border Protection employees and thus falls within the jurisdiction of the Committee on Ways and Means.

However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to exercising its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 4567 and would ask that a copy of our exchange of letters on this matter be included in the CONGRESSIONAL RECORD during floor consideration.

Best regards,

BILL THOMAS,
*Chairman.*

DEPARTEMENT OF HOMELAND SECURITY APPROPRIATIONS BILL, FY 2005 (H.R. 4567)
(Amounts in thousands)

| | FY 2004 Enacted | FY 2005 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| DEPARTMENT OF HOMELAND SECURITY | | | | | |
| TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS | | | | | |
| Departmental Operations | | | | | |
| Office of the Secretary and Executive Management | 80,317 | 102,623 | 80,227 | -90 | -22,396 |
| Office of the Under Secretary for Management | 130,210 | 302,664 | 179,806 | +49,596 | -122,858 |
| Office of the Chief Financial Officer | --- | --- | 13,000 | +13,000 | +13,000 |
| Office of the Chief Procurement Officer | --- | --- | 7,734 | +7,734 | +7,734 |
| Office of the Chief Information Officer | --- | --- | 60,139 | +60,139 | +60,139 |
| Total, Departmental operations | 210,527 | 405,287 | 340,906 | +130,379 | -64,381 |
| Department-wide technology investments | 183,784 | 226,000 | 211,000 | +27,216 | -15,000 |
| Office of Inspector General | | | | | |
| Operating expenses | 58,318 | 82,317 | 82,317 | +23,999 | --- |
| (By transfer) | (22,000) | --- | --- | (-22,000) | --- |
| Total, Office of Inspector General | (80,318) | (82,317) | (82,317) | (+1,999) | --- |
| Total, title I, Departmental Management and Operations: | | | | | |
| New budget (obligational) authority | 452,629 | 713,604 | 634,223 | +181,594 | -79,381 |
| (By transfer) | (22,000) | --- | --- | (-22,000) | --- |
| TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS | | | | | |
| Office of the Under Secretary for Border and Transportation Security | 8,058 | 10,371 | 10,371 | +2,313 | --- |
| U.S. Visitor and Immigrant Status Indicator Technology | 328,053 | 340,000 | 340,000 | +11,947 | --- |
| Customs and Border Protection | | | | | |
| Salaries and expenses | 4,367,430 | 4,577,491 | 4,608,991 | +241,561 | +31,500 |
| Harbor maintenance fee collection (trust fund) | 3,000 | 3,000 | 3,000 | --- | --- |
| Automation modernization | 438,520 | 449,909 | 449,909 | +11,389 | --- |
| Construction (border patrol) | 89,830 | 91,718 | 91,718 | +1,888 | --- |
| Total, Direct appropriations | 4,898,780 | 5,122,118 | 5,153,618 | +254,838 | +31,500 |
| Fee accounts | (1,044,327) | (1,100,551) | (1,100,551) | (+56,224) | --- |
| Total, Customs and border protection | (5,943,107) | (6,222,669) | (6,254,169) | (+311,062) | (+31,500) |
| Immigration and Customs Enforcement | | | | | |
| Salaries and expenses | 2,138,358 | 2,370,906 | 2,377,006 | +238,648 | +6,100 |
| Rescission | -54,000 | --- | --- | +54,000 | --- |
| Federal air marshals | 622,704 | 612,900 | 662,900 | +40,196 | +50,000 |
| Federal protective service | 424,211 | 478,000 | 478,000 | +53,789 | --- |
| Offsetting fee collections | --- | -478,000 | -478,000 | -478,000 | --- |
| Automation modernization | 39,764 | 39,605 | 39,605 | -159 | --- |
| Air and marine interdiction, operations, maintenance, and procurement | 208,960 | 257,535 | 257,535 | +48,575 | --- |
| Construction | 26,617 | 26,179 | 26,179 | -438 | --- |
| Total, Direct appropriations | 3,406,614 | 3,307,125 | 3,363,225 | -43,389 | +56,100 |
| Fee accounts | (273,000) | (225,375) | (225,375) | (-47,625) | --- |
| Total, Immigration and customs enforcement | (3,679,614) | (3,532,500) | (3,588,600) | (-91,014) | (+56,100) |
| Transportation Security Administration | | | | | |
| Aviation security | 3,724,112 | 4,238,164 | 4,270,564 | +546,452 | +32,400 |
| Maritime and land security | 261,449 | 29,000 | 65,000 | -196,449 | +36,000 |
| Credentialing activities | --- | 67,000 | 67,000 | +67,000 | --- |

DEPARTEMENT OF HOMELAND SECURITY APPROPRIATIONS BILL, FY 2005 (H.R. 4567)
(Amounts in thousands)

| | FY 2004 Enacted | FY 2005 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Intelligence | 13,520 | 14,000 | 14,000 | +480 | --- |
| Research and development | 154,285 | 154,000 | 174,000 | +19,715 | +20,000 |
| Administration | 424,679 | 539,852 | 524,852 | +100,173 | -15,000 |
| Aviation security capital fund | --- | (250,000) | (250,000) | (+250,000) | --- |
| Subtotal, Transportation Security Administration (gross) | 4,578,045 | 5,042,016 | 5,115,416 | +537,371 | +73,400 |
| Offsetting fee collections: | | | | | |
| Aviation security fees | -2,070,000 | -2,223,000 | -1,823,000 | +247,000 | +400,000 |
| Credentialing fees | --- | -67,000 | -67,000 | -67,000 | --- |
| Subtotal, offsetting collections | -2,070,000 | -2,290,000 | -1,890,000 | +180,000 | +400,000 |
| Total, Transportation Security Administration (net) | 2,508,045 | 2,752,016 | 3,225,416 | +717,371 | +473,400 |
| United States Coast Guard | | | | | |
| Operating expenses | 4,347,256 | 4,833,220 | 3,967,220 | -380,036 | -866,000 |
| Defense function | 337,994 | 340,000 | 1,204,000 | +866,006 | +864,000 |
| Emergency appropriations (P.L. 108-106) | 23,183 | --- | --- | -23,183 | --- |
| Rescissions | -71,000 | --- | --- | +71,000 | --- |
| Subtotal, Operating expenses | 4,637,433 | 5,173,220 | 5,171,220 | +533,787 | -2,000 |
| Environmental compliance and restoration | 16,900 | 17,000 | 17,000 | +100 | --- |
| Reserve training | 94,440 | 117,000 | 113,000 | +18,560 | -4,000 |
| Acquisition, construction, and improvements | 961,492 | 942,550 | 936,550 | -24,942 | -6,000 |
| Rescissions | --- | --- | -33,000 | -33,000 | -33,000 |
| Subtotal, Acquisition, construction, and improvements | 961,492 | 942,550 | 903,550 | -57,942 | -39,000 |
| Alteration of bridges | 19,136 | --- | 16,400 | -2,736 | +16,400 |
| Research, development, test, and evaluation | 14,912 | --- | --- | -14,912 | --- |
| Subtotal, U.S. Coast Guard discretionary | 5,744,313 | 6,249,770 | 6,221,170 | +476,857 | -28,600 |
| Retired pay (mandatory) | 1,020,000 | 1,085,460 | 1,085,460 | +65,460 | --- |
| Total, United States Coast Guard | 6,764,313 | 7,335,230 | 7,306,630 | +542,317 | -28,600 |
| United States Secret Service | | | | | |
| Salaries and expenses | 1,130,570 | 1,159,125 | 1,179,125 | +48,555 | +20,000 |
| Acquisition, construction, improvements, and related expenses | 3,558 | 3,633 | 3,633 | +75 | --- |
| Total, United States Secret Service | 1,134,128 | 1,162,758 | 1,182,758 | +48,630 | +20,000 |
| Total, title II, Security, Enforcement, and Investigations: | | | | | |
| New budget (obligational) authority | 19,047,991 | 20,029,618 | 20,582,018 | +1,534,027 | +552,400 |
| Appropriations | (19,149,808) | (20,029,618) | (20,615,018) | (+1,465,210) | (+585,400) |
| Emergency appropriations | (23,183) | --- | --- | (-23,183) | --- |
| Rescissions | (-125,000) | --- | (-33,000) | (+92,000) | (-33,000) |
| TITLE III - PREPAREDNESS AND RECOVERY | | | | | |
| Office for State and Local Government Coordination and Preparedness | | | | | |
| Salaries and expenses | --- | --- | 41,432 | +41,432 | +41,432 |
| State and local programs | 3,267,608 | 3,061,255 | 3,423,900 | +156,292 | +362,645 |
| Firefighter assistance grants | 745,575 | 500,000 | 600,000 | -145,575 | +100,000 |
| Total, Office of State and Local Government Coordination and Preparedness | 4,013,183 | 3,561,255 | 4,065,332 | +52,149 | +504,077 |
| Counterterrorism fund | 9,941 | 20,000 | 10,000 | +59 | -10,000 |

DEPARTEMENT OF HOMELAND SECURITY APPROPRIATIONS BILL, FY 2005 (H.R. 4567)
(Amounts in thousands)

| | FY 2004 Enacted | FY 2005 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| Emergency Preparedness and Response | | | | | |
| Office of the Under Secretary for Emergency Preparedness and Response | 3,430 | 4,211 | 4,211 | +781 | --- |
| Operating expenses (rescission) | -3,000 | --- | --- | +3,000 | --- |
| Preparedness, mitigation, response, and recovery | 223,673 | 208,499 | 210,499 | -13,174 | +2,000 |
| Administrative and regional operations | 166,015 | 146,939 | 203,939 | +37,924 | +57,000 |
| Defense function | --- | 50,000 | --- | --- | -50,000 |
| Subtotal, Administrative and regional operations | 166,015 | 196,939 | 203,939 | +37,924 | +7,000 |
| Public health programs | 481,144 | 34,000 | 34,000 | -447,144 | --- |
| Biodefense countermeasures | 884,749 | --- | --- | -884,749 | --- |
| Advance appropriations | 4,703,000 | --- | --- | -4,703,000 | --- |
| Advance appropriations, FY 2005 | --- | 2,528,000 | 2,528,000 | +2,528,000 | --- |
| Subtotal, Biodefense countermeasures | 5,587,749 | 2,528,000 | 2,528,000 | -3,059,749 | --- |
| Disaster relief | 1,789,380 | 2,151,000 | 2,042,380 | +253,000 | -108,620 |
| (Transfer to Office of the Inspector General) | (-22,000) | --- | --- | (+22,000) | --- |
| Emergency appropriations (P.L. 108-106) | 500,000 | --- | --- | -500,000 | --- |
| Emergency rescission (P.L. 108-199) | -225,000 | --- | --- | +225,000 | --- |
| Disaster assistance direct loan program account: | | | | | |
| (Limitation on direct loans) | (25,000) | (25,000) | (25,000) | --- | --- |
| Administrative expenses | 557 | 567 | 567 | +10 | --- |
| Flood map modernization fund | 198,820 | 200,000 | 150,000 | -48,820 | -50,000 |
| Radiological emergency preparedness program | --- | -1,000 | -1,000 | -1,000 | --- |
| National flood insurance fund: | | | | | |
| Salaries and expenses | 32,663 | 33,336 | 33,336 | +673 | --- |
| Flood mitigation | 77,809 | 79,257 | 79,257 | +1,448 | --- |
| Offsetting fee collections | --- | -112,593 | -112,593 | -112,593 | --- |
| (Transfer to Mitigation grants) | --- | (-20,000) | --- | --- | (+20,000) |
| (Transfer to National flood mitigation fund) | (-20,000) | --- | (-20,000) | --- | (-20,000) |
| Subtotal, National flood insurance fund | 110,472 | --- | --- | -110,472 | --- |
| National flood mitigation fund (by transfer) | (20,000) | --- | (20,000) | --- | (+20,000) |
| National pre-disaster mitigation fund | 149,115 | --- | 100,000 | -49,115 | +100,000 |
| Mitigation grants | --- | 150,000 | --- | --- | -150,000 |
| (By transfer) | --- | (20,000) | --- | --- | (-20,000) |
| Subtotal, Mitigation grants | --- | (170,000) | --- | --- | (-170,000) |
| Emergency management performance grants | 178,938 | --- | --- | -178,938 | --- |
| Emergency food and shelter | 152,097 | 153,000 | 153,000 | +903 | --- |
| Cerro Grande fire claims | 37,837 | --- | --- | -37,837 | --- |
| Total, Emergency Preparedness and Response | 9,351,227 | 5,625,216 | 5,425,596 | -3,925,631 | -199,620 |
| Total, title III, Preparedness and Recovery: | | | | | |
| New budget (obligational) authority | 13,374,351 | 9,206,471 | 9,500,928 | -3,873,423 | +294,457 |
| Appropriations | (8,399,351) | (6,678,471) | (6,972,928) | (-1,426,423) | (+294,457) |
| Emergency appropriations | (500,000) | --- | --- | (-500,000) | --- |
| Advance appropriations | (4,703,000) | (2,528,000) | (2,528,000) | (-2,175,000) | --- |
| Rescissions | (-3,000) | --- | --- | (+3,000) | --- |
| Emergency rescissions | (-225,000) | --- | --- | (+225,000) | --- |
| (Limitation on direct loans) | (25,000) | (25,000) | (25,000) | --- | --- |
| (Transfer out) | (-42,000) | (-20,000) | (-20,000) | (+22,000) | --- |
| (By transfer) | (20,000) | (20,000) | (20,000) | --- | --- |

DEPARTEMENT OF HOMELAND SECURITY APPROPRIATIONS BILL, FY 2005 (H.R. 4567)
(Amounts in thousands)

| | FY 2004 Enacted | FY 2005 Request | Bill | Bill vs. Enacted | Bill vs. Request |
|---|---|---|---|---|---|
| TITLE IV - RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES | | | | | |
| Citizenship and Immigration Services | | | | | |
| Operating expenses | 234,733 | 140,000 | 160,000 | -74,733 | +20,000 |
| Fee accounts | (1,564,000) | (1,571,000) | (1,571,000) | (+7,000) | --- |
| Total, Citizenship and immigration services | (1,798,733) | (1,711,000) | (1,731,000) | (-67,733) | (+20,000) |
| Federal Law Enforcement Training Center | | | | | |
| Salaries and expenses | 154,506 | 158,440 | 183,440 | +28,934 | +25,000 |
| Acquisition, construction, improvements, and related expenses | 37,137 | 37,917 | 37,917 | +780 | --- |
| Total, Federal Law Enforcement Training Center | 191,643 | 196,357 | 221,357 | +29,714 | +25,000 |
| Information Analysis and Infrastructure Protection | | | | | |
| Management and administration | 124,263 | 162,064 | 132,064 | +7,801 | -30,000 |
| Assessments and evaluations | 710,084 | 561,758 | 722,512 | +12,428 | +160,754 |
| Defense function | --- | 140,754 | --- | --- | -140,754 |
| Subtotal, Assessments and evaluations | 710,084 | 702,512 | 722,512 | +12,428 | +20,000 |
| Total, Information Analysis and Infrastructure Protection | 834,347 | 864,576 | 854,576 | +20,229 | -10,000 |
| Science and Technology | | | | | |
| Management and administration | 43,908 | 52,550 | 68,586 | +24,678 | +16,036 |
| Research, development, acquisition, and operations | 868,844 | 579,749 | 1,063,713 | +194,869 | +483,964 |
| Defense function | --- | 407,000 | --- | --- | -407,000 |
| Subtotal, Research, development, acquisition, and operations | 868,844 | 986,749 | 1,063,713 | +194,869 | +76,964 |
| Total, Science and Technology | 912,752 | 1,039,299 | 1,132,299 | +219,547 | +93,000 |
| Total, title IV, Research and Development, Training, Assessments, and Services: | | | | | |
| New budget (obligational) authority | 2,173,475 | 2,240,232 | 2,368,232 | +194,757 | +128,000 |
| Grand total, Department of Homeland Security: | | | | | |
| New budget (obligational) authority | 35,048,446 | 32,189,925 | 33,085,401 | -1,963,045 | +895,476 |
| Appropriations | (30,175,263) | (29,661,925) | (30,590,401) | (+415,138) | (+928,476) |
| Emergency appropriations | (523,183) | --- | --- | (-523,183) | --- |
| Advance appropriations | (4,703,000) | (2,528,000) | (2,528,000) | (-2,175,000) | --- |
| Rescissions | (-128,000) | --- | (-33,000) | (+95,000) | (-33,000) |
| Emergency rescissions | (-225,000) | --- | --- | (+225,000) | --- |
| (Limitation on direct loans) | (25,000) | (25,000) | (25,000) | --- | --- |
| (Transfer out) | (-42,000) | (-20,000) | (-20,000) | (+22,000) | --- |
| (By transfer) | (42,000) | (20,000) | (20,000) | (-22,000) | --- |

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

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

I thank the gentleman from Kentucky (Mr. ROGERS) and his staff for their hard work in producing the legislation we have today. President Bush's 2005 homeland security budget request fell far short; and while this bill is an improvement, and that it is, I am concerned that it does not go far enough to close troubling homeland security gaps.

The committee followed a logical plan in distributing the $32 billion allocation. However, this measure does not provide the resources needed to significantly improve our ability to detect terrorist activities or to respond to an attack. The committee was forced to make trade-offs among programs to improve disaster preparedness and response, immigration services, and programs to stop terrorists. As a result, we have some worrisome gaps.

The first responder funding cuts, this funding cut for local fire, police, and emergency personnel, is one of my biggest concerns. With cuts in fire grants and deep cuts in formula funds to most States, overall the bill provides $327 million less for first responders than was enacted in 2004. While funding to certain high-threat urban areas is increased, the fact is that this increase comes at the expense of the rest of the country. If these cuts hold, next year most States and localities will end up with less homeland security funding than they have today.

This bill comes just weeks after the American people saw live television coverage of the Attorney General and the FBI Director giving us alarming warnings of imminent terrorist attacks. At their press conference, Mr. Ashcroft said that our own intelligence and al Qaeda public statements indicated that it is almost ready to attack the United States and that they intend to hit us hard. This week an alleged al Qaeda operative was indicted for plotting to blow up a shopping mall in Ohio.

If terrorists attack us again, our local police, firefighters, and emergency workers will be the first on the scene. It frustrates me that there is little sense of urgency to ensure that these first responders have the tools that they need to do their jobs. This legislation also fails to address other critical homeland security issues.

Two of my chief concerns are the inadequate inspection of cargo carried on passenger planes and the lax Federal oversight of chemical plant security practices. Unlike passenger baggage, the cargo on passenger aircraft is not rigorously inspected, even though it is carried in the same hold. Furthermore, cargo carried on all cargo aircraft is not inspected at all. I am also troubled that the administration continues to have inadequate chemical plant security policies. For the most part, vulnerability assessments and security plans are left to the plant owners' consciences.

Last, I would like to point out a bill provision concerning the CAPPS2 air passenger prescreening system that TSA is developing and may be testing later this year. This provision updates last year's bill by requiring the Secretary to certify, and the General Accounting Office to review, the certification that all eight security and privacy criteria are met before the passenger profiling system can be deployed. In its first review in February, the GAO found that TSA had met only one of the eight criteria.

The new language also specifically mandates that GAO review the CAPPS2 methodology that is intended to predict whether a passenger could be a terrorist. This element is the most sensitive aspect of CAPPS2 with broad implications for Americans' privacy and civil liberties.

In closing, I am concerned that this bill continues, does not do more to close the troubling homeland security gaps. The American people demand our best efforts to protect the country from those who would do us harm, and the Congress should be more aggressive in challenging the administration where it falls short.

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

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. LATHAM), a very hardworking member of this subcommittee.

Mr. LATHAM. Mr. Chairman, I thank the chairman for yielding me time.

Mr. Chairman, I want to rise in strong support of H.R. 4567, and I want to commend the gentleman from Kentucky (Mr. ROGERS) who has shown tremendous leadership on this bill, a very, very difficult bill, and the gentleman from Minnesota (Mr. SABO) and all the staff on both sides of the aisle doing an outstanding job of moving this homeland security appropriations bill to the floor under a very tight fiscal circumstance.

We received a tremendous number of specific requests, and each of us has had to say no many more times than we would have liked to. I know that all Members of this Chamber have specific accounts they believe should have increased funding or areas for which they want to include language. There are particular programs that need more direction and money.

Most, if not all, of our colleagues care deeply about homeland security. We want it done right, and we want tangible results. However, at some point we need to focus on the possible and the reasonable knowing that none of us are going to be fully satisfied. I am not satisfied with the level of funding for the State formula grant, but given all of the factors that must be considered when addressing the various risks in each congressional district, the number for this program is not unreasonable; particularly when one considers that is a half a billion dollars over the administration's request.

We should also remember that there are hundreds of millions of dollars out there in our States that have yet to be obligated for homeland security. I am not satisfied with what I believe is less than adequate attention devoted to the threat of agroterrorism, particularly as it relates to prevention activities and needed work to advance animal vaccines; and I openly criticized the people in the Department who have been shortsighted in this area. I intend to be an advocate for protecting our agriculture economy from terrorism.

The potential cost of agroterrorism to rural economy is hard to imagine, yet alone the cost as far as food safety.

For those who want to score easy political points, this is a great bill for you. I will be one of those first who worry about funding levels. But none of us holds the answers to what truly defines adequate funding for homeland security.

As we debate this appropriations bill, I challenge the critics today to be honest with the American people. This is not an easy bill to write, and the most complex and the most demanding homeland security functions make easy targets for those who claim to be an authority on what is the best way to spend our homeland security dollars.

As the chairman has said, we can all think of more ways to spend money on homeland security, and there is no end to what we could spend. Nobody can argue that. And the issue is how well we shepherd our limited resources. In my view, this is one of the most important spending measures we will consider this year. We all know what the budget situation is; but we have crafted a very, very good bill.

I urge the Members to support this bill, keep the debate honest, and pass it quickly because it is so important to our constituents and to this Nation.

Mr. SABO. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin (Mr. OBEY), the ranking member of the full committee.

Mr. OBEY. Mr. Chairman, I remember being here during the first and second energy crisis in 1973 and again in 1977 under President Ford and then President Carter. And when we realized what a bind we were in on energy, we had a bunch of new actions taken. We took action to support new investments in technology. We supported new investments in energy conservation. We supported new investments in alternative fuels.

And then slowly but surely during the Reagan years and afterwards, the Congress lost its interest, it lost its zeal, so did the administrations. And little by little those initiatives were just sort of slowly drained out of the budget, and we wound up getting in real terms back to about just where we were in terms of making those investments before we were hit by the energy crises.

Unfortunately, I think that is what has happened with respect to the homeland security issues after 9/11. I remember after 9/11 going down to the White House, talking to the President with my good friend, the gentleman from Florida (Mr. YOUNG).

We presented to the President a bipartisan list of initiatives which we had been told by the President's own security people were essential to try to protect us from future attacks. And I remember that instead of being met with a willingness to sit down and listen to what people had to say, the President essentially said, ''Folks, if you appropriate one dollar more than I have asked for, I will veto the bill.'' And there was no receptiveness at all.

Then in the next year, the President vetoed or pocket-vetoed about a billion and a half dollars in additional actions for homeland security. This bill pretty much continues the status quo since that time. We have, it is true, over time increased our investments in homeland security by about two-tenths of 1 percent of our gross national product, but because the majority party has concluded that their number one priority is tax breaks, there is not enough room left for any significant new initiatives on the homeland security front, and I think that is highly dangerous for the country.

As the gentleman from Minnesota (Mr. SABO) has indicated, if you compare the challenges with the resources being applied to those challenges, we are falling woefully short. I do not think the public understands that only a tiny percentage of air cargo on passenger planes is being inspected these days for explosives.

□ 1945

I do not think they understand that this bill is 8 percent below where we were told by the President initially that we should be in terms of the number of sky marshals.

I do not think the public understands how little is being done to secure our ports against dirty bombs and other weapons of mass destruction.

I do not think the public understands that of the 45 major ports who ship to this country, only 20 of them have a decent customs inspection operation. I do not think the public understands that the inspectors we have in those ports are there on temporary, 6-month duty and, therefore, do not learn the territory well enough to really do their jobs as well as they otherwise could.

I do not think the public understands that on the northern border the PATRIOT Act required us to have 2000 more inspectors than we have today.

I do not think the public understands that only 13 percent of our fire departments are equipped to handle a full-fledged HAZMAT challenge. I do not think the public understands that we have fewer firefighters in our localities today than we had at the time of 9/11.

I do not think the public understands that within the homeland security agency itself, that of the 500 career slots in that agency there are 171 vacancies. The agency itself still does not have a phone directory, and one-quarter of the slots at Homeland Security are filled by political appointees.

So I think we have a long way to go in fixing these home security problems, and while I appreciate everything that the chairman has tried to do, he has not been given the resources with which to do a truly comprehensive job.

Mr. Speaker, that is why I will attempt, despite the adoption of the rule, I will attempt to offer an amendment which adds about $1.5 billion for first responders, which will add $120 million for cargo security, for additional screening and canine detection; $300 million for more explosive detection equipment; $550 million more for strengthening our border and a variety of other initiatives.

I think that if we can provide $25 billion in the Defense bill to defend the country, if we can provide that on an emergency basis, I think we need to do the same thing with respect to defending the homeland close to our own homes. So I would urge that, despite the fact that the rule allows a point of order to be lodged against that amendment, I would urge that no one make that point of order because this country needs investments which this bill does not permit us to make, and we will all be safer, certainly our constituents will be safer, if the amendment passes than they will if it does not.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 3½ minutes to the very distinguished gentleman from New York (Mr. SWEENEY), who has been on the subcommittee and a very valuable Member.

Mr. SWEENEY. Mr. Chairman, I thank the chairman for the time.

Mr. Chairman, I rise in general support. I really want to acknowledge the very difficult and great work by the gentleman from Kentucky (Chairman ROGERS) and the ranking member, and as a member of this subcommittee, as a member of the Select Committee on Homeland Security, this is a tough, tough, tough piece of work to put together, and I rise to acknowledge that. Everybody knows where I come from. I come from the State that absorbed one of the greatest hits in the history of this country. So there are real challenges here that have real life consequences.

The gentleman from Kentucky (Mr. ROGERS) is one who has gotten that, and I wanted to recognize and I think he in this bill has attempted to bring and indeed has brought as balanced an approach as we could expect in this process, and as he said, this is an evolving process, and we may have some honest disagreements among friends, but we are united on the general principles. This bill does do an awful lot of accomplishing some of the things that we need.

I rise for the purpose of engaging in a colloquy with the chairman as well. I want to thank him for participating in that, and I want to address a significant issue related to the Department of Homeland Security. That is the geospatial management issue which is a critical tool in providing homeland security.

Mr. Chairman, I applaud the gentleman's work, the committee's work and the administration in providing due attention to geospatial technologies.

Satellite imagery, aerial photography and other geospatial technologies provide data to quickly visualize activity patterns, map location and provide information to conduct analyses to help prevent or lessen the impact from an emergency situation.

Mr. Chairman, there is no single office in DHS responsible for geospatial management and, therefore, no corresponding budget. In the present structure, the geospatial information officer does not have the authority to compel DHS directorates to cooperate.

Geospatial coordination will help end duplication of geospatial activities.

A geospatial management office needs to be created and codified within DHS under the Chief Information Officer.

I am pleased to see report language stating clear and concise policy direction is needed for geospatial information and technology efforts.

Under the gentleman from Kentucky's (Chairman ROGERS) leadership, this committee supports the Department's request of $5 million to create a Department-wide geographic information system capability under the direction of the Chief Information Officer.

I would like to personally thank the gentleman for that and many other efforts in this bill and for the last several years and for his support and assistance.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. SWEENEY. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentleman from New York (Mr. SWEENEY) for bringing this important matter to the attention of the committee and the Congress. As overseers of homeland defense and security, I believe the committee acted responsibly in supporting the Department's request to make certain geospatial information management falls under the direction of the Chief Information Officer.

Mr. SWEENEY. I thank the gentleman from Kentucky (Chairman ROGERS). As this process continues, I hope a geospatial information office is created, with a corresponding budget, at DHS.

Would the gentleman agree to work with me during conference to strengthen report language to direct the Secretary to create the Office of Geospatial Management within the CIO's office to oversee the geospatial activities?

Mr. ROGERS of Kentucky. Mr. Chairman, if the gentleman would continue

to yield, I look forward to working with the gentleman as we move forward and will certainly work to strengthen the report language in conference as events dictate.

Mr. SWEENEY. I thank the chairman for all of his work, and let me just say, this is a tough, tough bit of work we have to do, an important debate, and we have one of the best at the helm, leading us in it.

Mr. SABO. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. PRICE), a distinguished member of our committee, and friend.

(Mr. PRICE of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Chairman, I am grateful to the gentleman from Kentucky and the gentleman from Minnesota for their conscientious and cooperative efforts reflected in this bill.

The bill directs much-needed resources to transportation security, Customs, and border protection, and it funds the BioShield program that will play a vital role in our preparation for bioterrorist attacks.

Given the very limited funds that the gentleman from Kentucky (Mr. ROGERS) and the gentleman from Minnesota (Mr. SABO) were allocated, theirs was not an easy or enviable task, and I fear the final result does reflect the poor hand our subcommittee was dealt.

During recent funding debates, we have often heard Republican leaders say that there are simply no funds available to provide what is needed. I suspect we will hear it again tonight.

What we will not hear them say is that since 9/11 we have spent 22 times as much on tax cuts as we have on protecting the American people from terrorist attacks. That is 22 times as much, for tax cuts mainly aimed at the most privileged people in America.

Look at the numbers. State formula grants, the bread and butter of first responder funding, have been cut by over 25 percent. Fire grants have been cut by 20 percent. Grants to our police and law enforcement have been hit hard, too. These programs were a critical source of funding for first responders long before 9/11. By cutting them, we are in effect deciding that our police and firefighters need less funding in the post-9/11 era, not more.

Listen to how FEMA describes the bleakness of this situation: A new study shows that more than two-thirds of fire departments in this country operate with staffing levels that do not meet the minimum safe staffing levels required by OSHA and the National Fire Protection Association.

Not only are our first responders ill-equipped and understaffed to handle potential attacks, they are also struggling to respond to the everyday disasters of crime and accidents and fires and hurricanes and floods.

It is true, Mr. Chairman, that this bill increases funding for the urban area security initiative. That is terrific news for a handful of big cities, and it does make sense, but first responders in rural and suburban areas and in smaller cities need support, too. Increases for this initiative are no match for the Draconian cuts in overall State grants.

Mr. Chairman, the House leadership and the President have shown incredible willpower and resolve in ramming trillion dollar tax cuts through this Congress. Yet when it comes to protecting our homeland and supporting our first responders, they say their hands are tied. They claim to be tough on terror, but talk is cheap and, unfortunately, so are Congress and this administration when it comes to supporting our first responders.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee (Mr. WAMP), a very hardworking member of the subcommittee.

Mr. WAMP. Mr. Chairman, I thank the chairman for the time. I appreciate not only the gentleman yielding me time but just his extraordinary time over this last year and a half since we began this new subcommittee here in the House.

The gentleman who just spoke is a very thoughtful, well-educated and very energetic member of the subcommittee, and as we have worked through all these issues over the last year and a half he has been very helpful, but what he just said is drivel, drivel.

The fact is tax cuts are one issue that helps the economy. It is a policy matter that was made by the Congress. This is homeland security, where we have spent billions of dollars and done extraordinary work. It is nonsense to bring up the tax issue while we are talking about appropriating the money for homeland security. That is a fact. That is a different debate for a different day, but this is also not cost sharing with local government from the Federal Government. We cannot do everything, and for a lot of people on this side we cannot appropriate enough money. It does not matter what the level is, they will want more, and they will play politics with this issue because they think it can resonate, and this is unfortunate because the best work here is when we get together and we do what is right, and that is what we are trying to do on this side of the aisle.

The chairman and his staff have done an extraordinary job. Now I am not totally happy with the Department of Homeland Security at all, and my colleagues know that at the hearings I have been very hard on the Homeland Security Department, particularly in the Science and Technology Directorate, and they need to hear us long, loud and clear. They need to do a better job, but overall, I have to tell my colleagues, this subcommittee has done extraordinary work.

Our intelligence work is dramatically better than after September 11. We are allocating the money to the best of our ability, but it is not a bottomless pit, and when my colleague talks about reports that show that firefighting organizations around the country do not have everything they want or need, there are 55,000 local law enforcement and firefighting organizations in this country, and the Federal Government cannot fund them all with everything they need. The responsibility still lies at the local and the State level, and this subcommittee has done an extraordinary job, and the Congress has a balanced approach, and this is not a bottomless pit.

I just want to say that we are at a critical juncture going into the next several months in this country with events that are very important, and I think it is important that we pull together. I hope this subcommittee can stay above some of the mindless kinds of rhetoric that comes to the floor when we pass important appropriations bills, and I hate to hear some of the most educated and informed Members dumb this down to a debate over tax cuts versus necessary spending.

This is necessary spending, and we are meeting those needs. I want to applaud the leadership. Our chairman and his staff have done an excellent job. Secretary Ridge is doing an excellent job. We still have miles to go before we get there, but we are on our way.

Mr. SABO. Mr. Chairman, I yield 15 seconds to my friend the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Chairman, I regret that the gentleman from Tennessee would not yield for a question, but let me just say a couple of things.

One is that no matter how heated this debate gets I will never call his comments drivel, and if my tongue happened to slip and I used that term, I assure him I would apologize.

Secondly, I want to note that the gentleman's notion that the budget allocation, which is what I was talking about, the budget allocation given the Homeland Security subcommittee, is not related to revenue policy, is a noval concept. You do not have to have a whole lot of education to understand that the size of tax cuts determines how much money there is to allocate.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

□ 2000

Mr. OBEY. Mr. Chairman, let me simply say that the idea that how much money is allocated to tax cuts is totally unrelated to how much money is left for homeland security or education or health care, the idea that those things are unrelated is absurd and preposterous. The fact is that unless the deficit is totally meaningless, and I do not think it is, then if you put all of your eggs into the tax cut basket, especially if you provide so much of them to people who make over $200,000 a year, then that indeed does

have an effect on what is available for port security, what is available for the northern border security, what is available for first responders, and if the gentleman does not understand that, then I think we need to set up a new grade school on Capitol Hill.

Mr. SABO. Mr. Chairman, I yield myself such time as I may consume.

Let me say to the gentleman from Tennessee (Mr. WAMP), I think I know a little bit about budgets, having spent some time doing that, at a time when we passed budgets that reduced the deficit and we had some tough requirements on spending, and raised revenues to make the deficits go down.

The reality is that the most important decision in a budget resolution is the total amount set for discretionary spending. That then governs the decisions we have to make on this bill and the other 12 bills that we have before the Congress. If that budget resolution has an unrealistic number for the total discretionary spending, it limits every option we have.

I think I and others have been clear that this bill represents an improvement over what the President asked for, that it has reasonable choices within the dollar allotment that this committee has given. I think the chairman has done an excellent job. I would not share his enthusiasm for how good the Department is going, but he is also tough on them at many times.

But there is also one other thing that we do, and that is we say there are certain expenditures that are emergencies and go above and beyond the normal budget process. Since 9/11, we have appropriated billions of dollars as emergency expenditures for our friends in New York, for operations in Afghanistan and Iraq, I think with unanimity on the expenditures in Afghanistan, division over our operation in Iraq, but then again significant support for our troops whether we agreed or disagreed with that policy.

Just the other day in appropriations, we appropriated $25 billion more of emergency spending beyond the normal defense appropriation for next year for operations in the Middle East, and we know that number is going to increase. What some of us are saying is that there are significant security gaps that we should deal with in this country and we should have a modest amount as emergency spending.

The gentleman from Wisconsin (Mr. OBEY) asked for $3 billion for rational things to do, disciplined things to do, in comparison to the billions and billions we are spending outside this country. That is legitimate debate. It is legitimate options that we could do, and some are choosing not to do that. If we declared it emergency and appropriated that $3 billion, it could not be spent unless the President decided to spend it.

So what we are talking about here is not irrelevant, it is important and there are distinct differences; and those differences do not diminish our respect for the quality of work done by the chairman and the subcommittee.

I would just suggest do not belittle the opinions of lots of people in this place that there are significant security gaps in domestic security, echoed by all kinds of experts outside this institution that we are not dealing with.

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

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. FOSSELLA).

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

Mr. FOSSELLA. Mr. Chairman, I thank the chairman and friend from Kentucky for yielding me this time, and commends him and all for crafting an overall good bill.

It was brought up earlier how in this comprehensive bill there is time for honest disagreement, and I think later on this evening we will try to have a good conversation about that honest disagreement, and it relates to essentially how funding goes to what we will call high-threat areas as opposed to minimal guarantees for States and funding that some of us believe could be better spent in areas that can use it more and more effectively, like New York City.

By way of example, if we were to talk about enhancing our national security, and some Member suggested putting an aircraft carrier in the Great Salt Lake, somebody would probably think that is a little ludicrous, and we would say let us put the money where it is needed most.

While we are here trying to advocate more funding, bluntly for places like New York City, because that is where the funding is needed the most, Exhibit A for that clearly was September 11, and the Congress and the President and all united to help New York recover, but it still represents the terrorists' number one threat. The Federal intelligence community has confirmed this fact.

I think the President's budget also recognizes the need to prioritize funding in these areas by calling for $1.4 billion in the urban security initiative, $450 million more than the House bill. September 11 is not unique in New York. The first bombing of the Trade Center occurred in 1993. In between there was a conspiracy to destroy the Holland and Lincoln Tunnels, the George Washington Bridge, the United Nations and the Federal Building in Lower Manhattan, as well as a plot to bomb the subway.

Attacks in high-threat, high-density areas have great national economic impact in those areas as well. A Milken Institute study concluded, ''Disaster in New York affects business confidence in every major city,'' unlike events elsewhere. The study estimates a GDP decline of 1 percent and a loss of 1.6 million jobs nationwide because of the September 11 attacks on New York. For example, the financial service industry lost 96,000 jobs nationwide due to the attacks in New York, home to most the industry's headquarters, but two-thirds of those losses occurred throughout the country.

Our areas require intensive police coverage. New York City has 1,000 police officers dedicated solely to homeland security missions. The police department spent $200 million last year for these efforts. Despite the large sum, the police department alone has identified an additional $261 million in training needs, equipment and supplies directly related to counter-terrorism.

Given the vital needs, we would argue for more funds because that is where it is needed the most. Let me underscore, and this is not to take away from the great work of all people and their considerations, but homeland security, this is one home, not 50 different homes but one, and we are talking about security and we just appreciate a little more funding where it is needed in New York and elsewhere.

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. OLVER), a member of the full committee.

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

Mr. OLVER. Mr. Chairman, it is 33 months past now since 9/11 and it is time for this Congress to coldly examine our progress in reducing the threat of terrorist attack. Even though we are spending a lot more money 33 months after 9/11, only a minimal percentage of cargo on passenger flights are screened for explosives. We do not require chemical plant vulnerability assessment and security plans as we do require for nuclear plants.

We will have 20 percent fewer sky marshals in the air than 2 years ago. Thirteen million Americans use passenger rail systems each day, yet we have not taken appropriate steps to strengthen rail security. We have only hired two-thirds of the people that the PATRIOT Act mandated for protecting the northern border. We have invested only one-tenth of what is needed to protect our ports, and our first responders still lack the valuable tools they need to save lives.

The agencies entrusted with protecting our great Nation seem to be in bureaucratic chaos. Just a couple weeks ago, Attorney General John Ashcroft of the Department of Justice surprised the Department of Homeland Security by announcing that a terrorist attack is likely during the next few months. It turns out they had not communicated with the Department of Homeland Security, and in fact did not have any particular new evidence for such an assertion. Problems like this keep coming up and they will simply not work themselves out.

It is time for this body to determine the most critical security needs based on comprehensive terrorist threat analysis. We must fund those most critical needs properly and put an end

to this haphazard, seat-of-the-pants approach to our domestic security policy.

The gentleman from Wisconsin (Mr. OBEY), the ranking member, offered an excellent amendment during markup in the full committee, and he will offer a similar amendment on the floor today to add $1.5 billion to specific, seriously underfunded accounts in this bill. The Obey amendment will move us part way, but only a small part way toward properly funding our homeland security needs. Given what is at stake with this issue, we cannot afford to be funding homeland security on the cheap.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 3 minutes to the gentlewoman from Missouri (Mrs. EMERSON), a very hard-working member of this subcommittee.

Mrs. EMERSON. Mr. Chairman, I rise today in support of this bill, and I really want to thank the chairman for doing an exceptionally good job in putting this bill together, for lots of reasons, but primarily because the basic formula grants have been raised by $550 million, $36.7 million of which goes to the State of Missouri.

Because I represent a very rural district, 28 counties, I have no large cities, the largest city in my district is 33,000 people, it is the premier agricultural district in Missouri. It is one in which, if I was a terrorist, I would want to take advantage of the psychological fear that I could use to impact the entire population of rural America.

We have heard time and again that hundreds of U.S. Department of Agriculture documents have been found in abandoned al Qaeda caves. It is also reported that a significant part of the al Qaeda training manual is devoted to agricultural terrorism. This is a frightening fact when Members recall the purported terrorist interest in crop dusters, and there are probably 150 crop dusters running every single day in my district during this particular season.

Our food supply comes from rural areas and that is one big reason to make sure that our rural areas continue receiving some level of homeland security funding. Nobody is immune from terrorism. While I think it is so very important and critical to protect our high-density urban areas, just remember that the food supply is something that is important for every single person in this country. We rely on that food supply to be safe and secure. It is very easy, it is very much easier to disrupt a food supply than it would be to cause an incident oftentimes in a high-density area.

I think of the Mississippi River. That is my eastern border. We have millions of tons of chemicals and fertilizer moving up and down the river on barges. Not only does that present a clear danger and threat if tampered with, but it is just important. I think that the chairman has put together a very balanced bill, one that recognizes the needs of rural America as well as our urban cities. I ask all of my colleagues to support this bill. I thank the chairman for really treating all of the country fairly.

□ 2015

Mr. SABO. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. TURNER) who has done an outstanding job as the ranking member of the Select Committee on Homeland Security.

Mr. TURNER of Texas. I thank the ranking member for yielding me this time, and I appreciate the work that the chairman and the ranking member have done on this bill.

Mr. Chairman, all of us in this Chamber know that we have to work together in a bipartisan way to make the homeland as safe as it needs to be from the threat of terrorism. We also know that we are a country at war against al Qaeda and related groups. It is a war that demands we fight the terrorists wherever they exist. It is a war that demands we commit ourselves through our actions abroad to prevent the rise of future terrorists. And it is a war that requires us to ensure that our homeland is fully protected.

This cannot be business as usual. We must act with the same sense of urgency that we all had after September 11. As we look at these appropriations for the next year, our actions will demonstrate to the American people whether we are moving with the degree of speed that we need and the sense of purpose that we must have to protect our country.

The proposed increase for the Department of about $1 billion above the President's request is important and necessary, but we must put that $1 billion in perspective. We spend $1 billion a week in Iraq. We have committed our troops to winning that war. But we must also win the war against terrorism here at home. The cost of failure here at home would far exceed the investments we should be making to ensure that America is as secure as it needs to be.

Annual spending on homeland security still amounts to less than one-half of 1 percent of the gross domestic product. Since 9/11, we have increased the level of annual spending on the agencies that now make up the Department of Homeland Security by about $15 billion. During that same period, the annual increase in our defense budget has been about $100 billion. We must devote the resources we need to win the war on terror abroad, but we must also invest in the homeland security needs we have here at home.

The truth is, Mr. Chairman, the President's request, and this appropriations bill, will not close critical security gaps that we continue to face. For example:

This bill fails to provide the additional $200 million needed to ensure that nuclear materials and dirty bombs can be detected at all of our seaports and border crossings by next year;

It fails to provide sufficient funding—at least $1 billion—to improve the security of our rail and public transit systems;

It fails to provide over $400 million that the Coast Guard says it needs to protect our Nation's ports.

It does not provide sufficient funds for airports across the country to upgrade or install explosive detection systems;

It does not provide the $100 million needed to increase the number of personnel who guard our Nation's northern and southern borders; and

It fails to provide the needed communications, equipment and training for our Nation's first responders.

Later today, we will consider an amendment by Mr. OBEY of the Appropriations Committee that seeks to add $3 billion in additional resources to correct these and other shortfalls. I strongly urge all of my colleagues to support this amendment.

In the war against al Qaeda, we must provide ALL the resources required to protect the homeland. We cannot fail on any front. However, the total amount proposed for the Department of Homeland Security for next fiscal year will not meet our constitutional responsibility to provide for the common defense.

Mr. Chairman, the limitations imposed on our homeland security efforts is a direct function of choices that we make. If we want to take faster and stronger action to close the security gaps we face, we could do so. The American people are watching the choices we make and if the terrorists strike again and we are not ready we will be held accountable.

Mr. SABO. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Chairman, I thank both the chairman of the committee and the ranking member for doing a job that is very tough. I rise tonight to address a problem that is important for first responder training in very urban areas. I represent a district in Houston, in Houston's energy and port complex, a supercritical infrastructure for our Nation's economy. Houston is currently the only city in America that meets all 15 Federal threat criteria for a terrorist attack, and as such a coordinated public safety effort in the Houston area is critical.

Houston Community College, a Historically Black and Hispanic Serving Institution, has planned a public safety institute that would help in coordinating the training of all our local first responders, both city, county, fire, police, everyone, port security. The public safety institute would do a great deal in providing that uniformity of training from local and regional police and EMTs, private sector, port, trains, even Federal agencies such as the Coast Guard, FBI and Border Patrol.

Houston Community College is hoping some day to have 40 percent Federal funding with a 60 percent State and local and private match. I know there is no construction funding in this bill except for Federal law enforcement centers, but I would hope we would see something like this cooperative effort, particularly in a city in an industrial area like Houston.

Mr. BRADY of Texas. Mr. Chairman, will the gentleman yield?

Mr. GREEN of Texas. I yield to the gentleman from Texas.

Mr. BRADY of Texas. I first want to thank the chairman and ranking member for their leadership on this issue and say that I fully support their efforts to make our Nation more secure. The gentleman from Texas (Mr. GREEN) has been a champion of the public safety institute. I fully support this effort. I hope the chairman will take this great idea into consideration.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. KING).

Mr. KING of New York. Mr. Chairman, there is probably no issue that we will be debating in this session which has more significance to me or the other members of the New York delegation than the entire issue of funding for homeland security. In my district and in adjoining communities, we lost hundreds and hundreds of people on September 11. We have to do all we can to make sure that that never occurs again.

I commend the chairman for the work he has put into this bill; but later this evening, the gentleman from New York (Mr. SWEENEY), the gentleman from New York (Mr. FOSSELLA), and I will be offering the point and making the case why we believe more money should be allocated to high-threat areas such as New York. New York City, the downstate areas, and the entire State are running up well over $1 billion in expenses related entirely and just to homeland security and counterterrorism. This is a threat which must be met, and it is an issue which is going to be discussed later this evening. I look forward to that opportunity. I thank the chairman for giving me the opportunity to raise these points at this time.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. DEFAZIO), a member of the authorizing committee for a significant part of this bill.

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

Mr. Chairman, in response to the earlier debate, there is a relationship between everything we do here and everybody knows that. We have to make tough choices every day. We have to choose between budgets and priorities. Plain and simple, this administration and the Republicans on that side of the aisle have said that tax cuts for the wealthy are a higher priority than adequate funding for first responders. My first responders are crying out for interoperable communications. What was the response of the Bush administration? Zero. They zeroed it out of the budget this year. I cannot even try and add money back into it because it does not exist anymore in the Federal budget. That is the number one priority of the police and fire in my State.

Who are we going to call? Who are going to be the first people there? Not the Army, not the military, not any Federal agencies. It is going to be our local responders. And they are not even going to be able to communicate among one another, let alone with State or Federal authorities. This bill does not have enough money to meet the homeland security needs of this country.

In addition, there is another choice. We are going to spend twice as much money on the Star Wars fantasy, a weapons system that does not work, as we are going to spend on all the border and port security for the United States of America. There are tough choices, and you are making the wrong decisions.

Mr. SABO. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I thank the ranking member for the work done and the chairman.

Mr. Chairman, I know this is a hard task. As a member of the authorizing committee, the Select Committee on Homeland Security, I would just simply say that the greatest challenge is to secure the homeland; and in the backdrop of the 9/11 Commission reports, we find out that the FAA did not readily have the ability to contact the United States military when the airplanes were in the air. But I think what is most important is that we secure homelands outside of the Beltway. We need more money for a citizen corps, to establish them in our neighborhoods, which is an amendment that I have. The Houston Community College, which I support, my colleague from Texas wants and needs more money for training of first responders. I think it is imperative that we engage historically black colleges and community colleges that serve Hispanics and African Americans to train them in these issues. And I think it is clearly vital for us to realize that with a number of border initiatives, there needs to be more resources utilized not only for the idea of protecting the border but when you have them under adjudication. And so I believe that we need more money, frankly, and we need more money for threat assessment for these larger communities.

Mr. Chairman, I rise to discuss the Homeland Security Appropriation Act of 2005, H.R. 4567, and express important concerns on this important funding.

It is imperative that this body provide the $16 million necessary for the construction of the Houston Community College Public Safety Institute. I want to take this opportunity to thank Congressman GENE GREEN in particular on taking the lead on this vital issue. It was through his leadership that this request was originally made to the Subcommittee on Homeland Security on the Appropriations Committee.

I also want to commend Subcommittee Chairman HAROLD ROGERS, Ranking Member MARTIN SABO and all the Members of the Subcommittee for the work and effort they put in to make sure that our Homeland Security efforts are properly funded. However, if we are to demonstrate to the American people that after the horrendous attacks of September 11th that the American government is truly taking a comprehensive approach to Homeland Security then initiatives such as the Public Safety Institute (PSI) must be undertaken.

It is vitally important that facilities and services at the local level be properly prepared to deal with emerging Homeland Security needs. In this vein, Community Colleges and HBCUs can serve as perhaps the ultimate ground for protection of local communities. These educational facilities have campuses and the facilities necessary to help train and incorporate first responders, who are crucial in the area of Homeland Security.

While we take many measures on the Federal and State level to ensure Homeland Security, we must also make certain that the security needs at the local level are met. It is with this knowledge in mind that the Houston Community College (HCC) seeks to construct the PSI both for the Homeland Security needs of the city of Houston and as a model for effective vigilance at the local level.

In the city of Houston, one of the largest, most populated, and most active cities in America, there is no doubt that the PSI is necessary. In fact, Houston is the only city in America that meets each of the 15 Federal threat criteria for a terrorist attack. We cannot allow the people of Houston or any major city in America to have their public safety compromised.

In a judiciary markup of the First Responder bill, H.R. 3266, I intended to offer an amendment to better assure that States fulfill their responsibilities to provide Urban Area Security Initiative (UASI) funds to local entities, governments, and first responders in a timely manner.

Based on recent experience with the rounds of UASI funding that has passed through States, many UASI designees have experienced great difficulty in accessing and spending their funding.

For example, the Houston metropolitan area still is awaiting its Round 2 UASI sub-recipient agreement from Texas. Without that State action, the city and counties cannot finalize their bids and execute contracts for equipment and training already identified and approved in their regional strategic plan. That is nearly $20 million being held up in the pipeline for expenditure, Mr. Chairman.

It is ludicrous that H.R. 4567 proposes to appropriate only $1 billion for discretionary grants for use in ''high-threat, high-density'' urban areas and for rail and transit security.

The PSI will serve a needed function in the city of Houston, which while being ethnically diverse is also very diverse in terms of its geography and makeup. These sets of circumstances require specialized training, the kind of training that only a facility like the PSI can provide. The $16 million Federal appropriation would assist the Houston Community College (HCC) with the development and construction of a training complex to house the PSI, an expanded, technologically sophisticated regional training center. In particular, the PSI will include classrooms, a firing range, a simulated skills village, a burn building, and a hazardous materials center. Additionally, the PSI will include a driving track physical education center command center and dive pond. These facilities will serve local and regional police, fire and EMT departments, the Port of Houston, the city's airports and railroads, Houston's chemical and petroleum industries, as well as Federal agencies including Coast Guard, FBT, Border Patrol, Customs and Disaster Recovery. At this point I would hope that

it is abundantly clear the need for the PSI facility in the city of Houston.

Currently, HCC trains over 250 EMTs, 300 fire-fighting cadets and 200 police cadets annually in order to meet Houston's Homeland Security needs. The current HCC facilities are used to train an additional 1,000 police and firefighters, and the PSI would serve an additional 2,000 local police, firefighter and EMT personnel. Let me be clear, the PSI is not an experimental exercise for possible Homeland Security needs. The PSI is in fact the kind of facility that can help public safety officials prevent terrorist attacks both now and in the future. This $40 million, 25-acre complex will represent the cooperative relationship between Federal, State, and local law enforcement that was missing in the time before September 11th. In so much as this is an effort that affects the Federal, State and local levels, HCC has requested support from the city of Houston, Harris County, the State of Texas, as well as private contributors, to fund the $24 million non-Federal share of the project.

Mr. Chairman, I hope everyone in this body will recognize the need for this facility. The people of Houston and indeed the people of the United States deserve to know that all necessary measures are being taken to protect their well being and the future of this Nation.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would like to remind the Members that out of courtesy to our colleagues, we operate under time limits. It is only courteous to make a good-faith effort to adhere to those time limits.

Mr. ROGERS of Kentucky. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WELDON), a member of the Select Committee on Homeland Security, the authorizing committee.

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, I rise in strong support of this legislation and praise both parties for their outstanding work on homeland security. The chairman has done an absolutely fantastic job in bringing together the appropriations necessary to fund our homeland security operations, and I appreciate the work of the ranking member as well.

Mr. Chairman, prior to 2000, there was not a dime of Federal money for the Nation's first responders for firefighters. Not a dime. In 2000, 1 year before 9/11, it was this body that began that funding through the Assistance to Firefighter grant program. It was this body who did that. In the past 3 years, this committee has appropriated $2.1 billion to 17,000 out of 32,000 fire and EMS departments nationwide. Large and small, they have applied directly. There is no middle person. There is no agency. They evaluate the grants themselves. There is no politics in it. It is the most successful program that Congress runs today because it works.

In the area of interoperability, it is the number one priority. In this bill, the chairman has money, the Congress, that Chairman Ridge is authorizing so that cities and States across the country are now implementing interoperable plans. It is a priority. There is funding going for that purpose. Every fire department in America, all 32,000, look at the work that has been done by this Congress with pride. Granted we may not have all the money that everyone wants, but no committee in this Congress, especially on the appropriations side, has begun to address local needs the way this subcommittee has. I applaud the chairman for that, and I applaud the ranking member. It has been a bipartisan effort. On behalf of the firefighters of America, I say to all of you, thank you. Keep up the good work.

Mr. SABO. Mr. Chairman, I yield 1½ minutes to the gentleman from Maryland (Mr. WYNN).

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

Mr. WYNN. Mr. Chairman, the praise that we heap upon our brave first responders and firefighters is no substitute for adequate funding. That is why I am appalled that after more than 2 years this bill comes to the floor and cuts first responder formula-based grants by $440 million. It also cuts firefighter assistance by $146 million, a 20 percent cut. This is not about some Democratic wish list. The Council on Foreign Relations report indicates that local first responders need about $98 billion to meet our country's needs.

It is my view that as the majority party, the Republicans control the purse strings and set the priorities, and they are responsible for making sure we have adequate funding. The Washington metropolitan area is a key target. My district in the suburbs has first responders that will have to come to the aid of our citizens in the event of an attack. But suburban communities such as Prince George's need millions for radio communications, training for first responders, $15 million for emergency response centers. In Montgomery County, we need funding for urban search and rescue teams, teams that responded on September 11. But this bill cuts $57 million out of urban grants for urban search and rescue teams.

The point is we can do better. This is about homeland security. This should be a major priority. And, yes, tax cuts for the very wealthy do relate back to the fact that we have not put enough money into our homeland security funding. And so what I am here to say is I think both the chairman and, of course, the ranking member are well-intentioned, but we need to put more money in this bill to protect our homeland.

Mr. SABO. Mr. Chairman, I yield the balance of my time to the gentlewoman from California (Ms. WOOLSEY).

The CHAIRMAN. The gentlewoman from California is recognized for 1¼ minutes.

□ 2030

Ms. WOOLSEY. Mr. Chairman, our first line of defense against terrorist attacks would be our first responders, our police, our fire, our health care workers. They are the first on the scene. They must be prepared for whatever emergency arises, but despite the President's rhetoric supporting first responders, his 2005 budget cuts $800 million from first responder grants, and the bill before us tonight cuts 7 percent of the funding for local emergency personnel. This is going in the wrong direction, and it is because of the tax cuts for the best off in the country. If we were not doing that, we would probably have enough money for those programs.

While we need at least $98 billion to meet the demand for self-contained breathing units or protective clothing or hazardous chemical attacks, the Federal Government is providing less than 15 percent of these critical funds. Who will pay for this? Local governments of course.

Mr. Chairman, funding for first responders is crucial because they need to protect our local communities, because they are the ones that are first in line of defense. We are short-changing them. They are our brave men and brave women. They are parts of our communities. They protect our communities, and we are short-changing them while we are cutting taxes for the very best off in this Nation. Shame on us.

Mr. NUSSLE. Mr. Chairman, I rise to speak on the appropriations process for fiscal year 2005 and the Homeland Security appropriations bill in particular. The actual appropriations process commenced on May 19, when the House agreed to a budget resolution that established an overall limit on appropriations for fiscal year 2005 of $821.9 billion, excluding emergencies. This limit was developed in the context of a freeze on non-defense, non-homeland security discretionary spending. The Interior and Homeland Security bills we are considering this week mark the first steps in establishing our priorities in discretionary spending programs within the overall limit established by the budget resolution.

The budget resolution provided a total allocation for discretionary appropriations of $32.0 billion for Homeland Security in fiscal year 2005, demonstrating the high priority that the House is placing on this vital area. This amount includes $2.5 billion in advance appropriations that were previously enacted for Project BioShield.

While there has been much discussion about the other body not achieving an agreement on the budget for the coming year, this House has done its job in adopting the Concurrent Resolution on the Budget for fiscal year 2005, and deeming it to be in effect in the House by a separate vote. Now the appropriations process has begun pursuant to that framework.

Today we consider the second of these appropriations bills, H.R. 4567, the Homeland Security Appropriations Act of 2005. This is only the second time this chamber has considered a separate appropriation bill for the Department of Homeland Security, which consolidates 22 Federal agencies and its 180,000 employees.

The discretionary spending levels in this important measure are consistent with the limits

in the budget resolution for fiscal year 2005. The bill provides $32.0 billion in appropriations, an increase of $2.8 billion or 9.4 percent above the previous year's level. Fiscal year 2005 Homeland appropriations in H.R. 4567 are equal to their 302(b) allocation, and the bill is also consistent with the budget resolution.

H.R. 4567 does not contain any emergency-designed BA, which is exempt from budget limits. It rescinds $33 million in previously-appropriated BA.

By increasing Homeland Security funding $1.1 billion above the President's fiscal year 2005 request, this bill demonstrates the House's strong commitment to win the war against terrorism. Consistent with the Budget Resolution, the bill provides resources in areas like Local First Responder funding, Border and Transportation Security, and Science and Technology. This bill will enhance the Nation's ability to secure our borders, protect lives and property, and disrupt terrorist financing.

I am pleased the Appropriations Committee was able to meet a critical need in the fiscally responsible manner outlined in the budget resolution. As we enter the appropriations season, I wish Chairman Young and our colleagues on the Appropriations Committee the best as they strive to meet the needs of the American people within the framework established by the budget resolution.

Mr. ROGERS of Kentucky. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill shall be considered for amendment under the 5-minute rule.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Clerk will read.

The Clerk read as follows:

H.R. 4567

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $80,227,000: *Provided,* That not to exceed $45,000 shall be for official reception and representation expenses.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701–705 of the Homeland Security Act of 2002 (6 U.S.C. 341–345), $179,806,000: *Provided,* That not to exceed $5,000 shall be for official reception and representation expenses: *Provided further,* That of the total amount provided, $65,081,000 shall remain available until expended for costs necessary to consolidate headquarters operations at the Nebraska Avenue Complex, including tenant improvements and relocation costs.

AMENDMENTS OFFERED BY MR. WELDON OF PENNSYLVANIA

Mr. WELDON of Pennsylvania. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. WELDON of Pennsylvania:

Page 2, line 16, insert after the dollar amount the following: ''(reduced by $50,000,000)''.

Page 25, line 24, insert after the dollar amount the following: ''(increased by $50,000,000, which increase is available for grants under section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a))''.

Mr. WELDON of Pennsylvania (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WELDON of Pennsylvania. Mr. Chairman, I ask unanimous consent to consider this amendment en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WELDON of Pennsylvania. Mr. Chairman, this amendment has been worked carefully with the distinguished leader, the chairman of this committee, the ranking member, the distinguished gentleman from Maryland.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. WELDON) will suspend.

The gentleman from Minnesota.

Mr. SABO. Mr. Chairman, unrelated to the gentleman from Pennsylvania's amendment, I think the gentleman from Texas (Mr. TURNER) had an amendment right prior to that, and I think he was standing right here.

I ask unanimous consent that the gentleman from Texas (Mr. TURNER) be allowed to offer his amendment after the gentleman from Pennsylvania (Mr. WELDON).

Mr. ROGERS of Kentucky. Mr. Chairman, I ask unanimous consent that we take up the Weldon amendment now, then the Turner amendment and then the regular order.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes on his amendment.

Mr. WELDON of Pennsylvania. Mr. Chairman, this amendment I am offering on behalf of myself and the gentleman from Maryland (Mr. HOYER) and a number of other Members, and I want to thank the distinguished chairman and ranking member for their cooperation and support, both in the subcommittee and the full committee.

This is a very important amendment, Mr. Chairman, that takes $50 million out of the homeland security personnel account and transfers it into the SAFER program, which provides SAFER grants for the 32,000 fire and EMS departments across the country to deal with the issue of staffing.

Mr. Chairman, as I mentioned earlier, it was this subcommittee who did so much to provide over $2.1 billion over the past 3 years to 17,000 fire and EMS departments in America to allow them to purchase needed equipment, firefighter breathing apparatus, interoperable communications, apparatus and trucks and vehicles, safety training, training for the firefighters, a whole host of activities.

This grant program has been so successful, and I know that every Member of Congress understands the impact in their district, because there is no politics in it. The evaluations are done by firefighters themselves, who volunteer to come to Washington and review all the applications.

In the first year of this program, we had over 30,000 applications from 32,000 departments.

Mr. Chairman, this legislation establishes a program to deal with the personnel issues. It allows paid departments to hire additional firefighters and paramedics and allows them to phase out the Federal portion over 4 years and then make a commitment to pick up the cost of that firefighter after that time period, but unlike other programs, like the COPS program, this program is administered and evaluated by their peers. There is no process of agencies. It is done by people involved in the fire service.

Mr. Chairman, why is this so important? Each year in America, we lose 100 firefighters who are killed in the line of duty. There is no occupation in America that has 85 percent of those 100 people who volunteer who die in the course of volunteering to serve America. Our military personnel are paid, our police officers are paid, some of our firefighters are paid, but the bulk of them are volunteers.

This program provides dollars so that volunteer fire departments can recruit more volunteers, so that volunteer departments who need paid drivers can bring in paid drivers, and so that paid fire departments who are woefully understaffed can finally have the beginning of the resources they need to properly protect their cities. This legislation does so much more than just provide protection for the homeland. It allows our emergency responders to deal with fires but also deal with terrorist incidents, HAZMAT incidents, all the typical concerns that we have across America.

I want to thank the distinguished chairman for his cooperation. He is a hero to the fire service of America. I

want to thank the ranking member and all of our colleagues, and I would ask that we get the vote not just for this amendment but also hopefully for the entire legislation with broad bipartisan support.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. WELDON of Pennsylvania. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, the gentleman has worked tirelessly on this effort, this amendment, and the SAFER funding, and the committee thinks this is a wise move. Our first responders are in great need, and we depend upon them, and I am happy to accept his amendment.

Mr. WELDON of Pennsylvania. Mr. Chairman, I thank the gentleman for his response.

Mr. HOYER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Pennsylvania (Mr. WELDON) and me.

The gentleman from Pennsylvania (Mr. WELDON) and I have for many years had the great honor of cochairing the Fire Service Caucus, which is the largest caucus in this House. I notice that the gentleman from New Jersey (Mr. PASCRELL), another cochair, is on the floor as well, the gentleman from Michigan (Mr. STUPAK), the gentleman from New Jersey (Mr. ANDREWS), who has been a cochair of the Fire Service Caucus, and others who have been strong supporters of the fire service, the emergency medical response teams, and when I say the fire service, both the paid professionals and the volunteer professionals who do such an extraordinary job in our community.

It has been said that there have been cuts in this bill to fire service assistance, and that is true. I know the chairman and the ranking member have fought very hard because the funds that they have available to them are limited. And I want to thank the chairman, as has the gentleman from Pennsylvania (Mr. WELDON). I want to thank the gentleman from Minnesota (Mr. SABO), ranking member, for agreeing to work with us to offer this $50 million to the SAFER funding, which will provide additional dollars for personnel for both paid and volunteer departments which is so critically needed in the country today.

So without further prolonging the debate, I want to thank the chairman for facilitating the adoption of this amendment.

Mr. SWEENEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to as well applaud and acknowledge the work of the subcommittee chairman on this funding for the SAFER Act. It is something that we worked together with the gentleman from Maryland (Mr. HOYER) and others through the subcommittee process, through the full committee markup. It is an important piece, an important effort. The $50 million is going to go a long way to maintain and preserve some essential services in some of the key and critical areas. And it was not an easy thing to do, and I think it is important. I am strongly in support of this.

Last year Congress enacted a new authorization as part of fiscal year 2004 DOD, an authorization bill known as the SAFER Act. It provided funds to hire up to 75,000 new firefighters. These are people critically needed in important places.

When I spoke earlier, Mr. Chairman, I talked about how balanced this was, how tough this bill was, how there were some really tough decisions in it, and this is a chairman who worked hard to find the right balances and find the right equities, and here is an instance where he did that, and I want to applaud him for that.

Mr. PASCRELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to commend the gentleman from Kentucky (Chairman ROGERS) for his support of this amendment, for all the hard work he has put into bringing this bill to the floor, and likewise I want to publicly acknowledge the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from Maryland (Mr. HOYER) for the exemplary leadership they displayed on behalf of the firefighters and fire community all of these years, as well as for their tireless efforts in navigating the newly established SAFER program through Capitol Hill.

Indeed, this amendment helps us fulfill our promise to the firefighters nationwide. The dangerous crisis of inadequate staffing in our Nation's fire departments must be confronted head on. This amendment does exactly that.

While we all know the statistics, I think they are disturbing enough to warrant further discussion. Two-thirds of all fire departments throughout America operate with inadequate staffing, and we are talking about career and volunteer departments. In communities of at least 50,000 people, 38 percent of the firefighters are regularly part of a response that is not sufficient to safely initiate an interior attack on a structure fire. Twenty-one percent of rural departments are often unable to deliver the four firefighters needed to safely initiate an interior attack. This is not acceptable.

The firefighters whose bravery and valor protect our Nation deserve all that we can present here. The consequences of insufficient personnel levels often lead to tragic heartbreaking results, Mr. Chairman, and it is imperative that Congress addresses this issue.

This amendment, which appropriates $50 million to the SAFER program to provide grants to help hire, recruit, retain career and volunteer firefighters, is vital in this regard.

Again I would like to thank the chairman and all the members of the Fire Caucus for the support shown towards this amendment, and I wish to thank firefighters for everything that they do day in and day out.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. ANDREWS. Mr. Chairman, I want to add my voice to personally thank the gentleman from Kentucky (Chairman ROGERS) and the gentleman from Minnesota (Mr. SABO), ranking member, for their leadership and hard work on this. I know that the chairman has many competing priorities, and I know that he has done a masterful job in accommodating this very important priority, and I personally thank him for that. I thank the gentleman from Pennsylvania (Mr. WELDON), my friend and neighbor, without whom none of this would have happened, the gentleman from Maryland (Mr. HOYER) for his skillful legislative work in bringing all this together and making this happen, the gentleman from New Jersey (Mr. PASCRELL) for his energy on this issue at all times. I am honored to be part of it.

Let me just make two brief comments. Two things we can be sure of: The first is when the next terrorist attack hits the United States the people who will benefit from this program will be the first ones to show up. They will be the first ones there, and because they are given these additional resources I am confident they will do an even better job than they already do.

The second thing we can be sure of is that we will get every nickel's worth of value out of this $50 million. The paid departments, fully paid departments, are used to stretching every dime, and they will get maximum personal value out of this, and the largely volunteer departments, any small bit of money for people that make money by washing cars and running beef and beers, any bit of money is going to help them expand their ability to protect the community. So I am very grateful to the gentleman from Kentucky (Chairman ROGERS) and the gentleman from Minnesota (Mr. SABO), ranking member; the gentleman from Maryland (Mr. HOYER); the gentleman from Pennsylvania (Mr. WELDON). I ask enthusiastically support the amendment. I ask for a large bipartisan vote.

□ 2045

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Let me add my appreciation as well, as I did in my earlier remarks, to the chairman and ranking member and as well the gentleman from Pennsylvania (Mr. WELDON) and the gentleman from Maryland (Mr. HOYER), whom I have seen on the first lines of helping first responders and firefighters for all of the time I have been here.

The first group that I met with after 9/11, after being able to get home to Houston, were firefighters, EMS and other first responders. Clearly, not only were they eager to find out how

they could help further and establish a concrete way to be really first responders all the way and all the time, but they were committed to their brethren, their fallen brethren in New York and all around, who were then on the frontlines on 9/11. Their sympathy and their concern still is extended to those who lost their lives on that day. But they have never wavered from their commitment to rise to the occasion whenever they are called.

It is clear now with the hearings that we are unfolding and the report of the 9/11 Commission that we will need, more than ever, the attitude and the appropriate resources, the appropriate attitude and resources for this United States Congress to share with our first responders around the Nation.

Firefighters are on the frontline; and this particular legislation, both the authorization and now the funding, ensures, if you will, the continuation of our support for firefighters around this Nation.

I simply wanted to thank the proponents of the amendment for crafting it such that it will pass; and, two, the ranking and chairperson of this appropriations bill for allowing this funding to go forward. Most of all I want to offer my thanks for the local community firefighters that I work with on a daily basis and the fact that they are still working.

If I might add something, I just simply hope that we can look at our hazardous materials teams and reflect on the increasing needs that they have. No matter how much money they get, there is an increasing need.

But my thanks go out to those who have managed to secure this funding on behalf of our firefighters.

Mr. SABO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the amendment, and I am ready to vote.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania (Mr. WELDON).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. TURNER OF TEXAS

Mr. TURNER of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TURNER of Texas:

In title I, in the item relating to ''OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT'', insert after the first dollar amount the following: ''(reduced by $450,000)''.

In title II, in the item relating to ''CUSTOMS AND BORDER PROTECTION—SALARIES AND EXPENSES'', insert after the first dollar amount the following: ''(increased by $450,000)''.

Mr. TURNER of Texas. Mr. Chairman, this amendment which I bring before the committee is one that has been supported by many Members, particularly the gentleman from Texas (Mr. REYES), the gentleman from California (Mr. HUNTER), the distinguished ranking subcommittee member, the gentleman from (Mr. SABO); and I want to especially thank the chairman, the gentleman from Kentucky (Chairman ROGERS), for working with us on this amendment to craft it in a fashion that was acceptable.

We all know that securing our borders while maintaining the flow of people and commerce is one of the central challenges of our new Department of Homeland Security. We are clearly investing in technology to achieve our goals, but we all know that technology alone can never do the job. It takes people.

We know that people inspect packages and cargo coming into our country; people run the new programs, like the U.S. Visit Program, which has recently been awarded by the Department; people patrol the thousands of miles of our southern and northern borders; people detain and apprehend drug dealers and terrorists and criminal aliens.

Since 9/11, the demands upon these border personnel have increased substantially. We know that the new Department of Homeland Security continues to fail to meet the demands of controlling our borders, as evidenced by the 7 to 12 million people that are estimated to be undocumented immigrants in our country and by the continuing reports of our porous southern and northern borders. The amendment we offer today would help address these significant security gaps.

When inspectors from our former Customs Service and the Immigration and Naturalization Service and the agents from the Border Patrol were all merged into the new Department of Homeland Security, each former agency was operating under a pre-9/11 staffing model that reflected the missions of those agencies at that time. Since then, our frontline officers are working longer hours, dealing with new security threats and helping to implement new border security programs. The men and women on our frontlines are working hard to meet this new challenge, and we have an obligation to help them.

This amendment supports our frontline officers by commissioning an independent study to try to answer the central question, how many people do we need on our front lines to secure our Nation's borders while moving people and cargo across our borders in a reasonable amount of time? This study would take into consideration a variety of factors: threat and vulnerability information, the impact of the implementation of new technology, and the wait times that we know exist.

Mr. Chairman, we need to know how many people we need to have on the frontline. The cost of not doing this study would far outweigh the $450,000 set aside in this amendment, transferred from the Bureau of Customs and Border Protection from the Department's Headquarters Management Account.

This amendment has the support of a diverse group, including the National Border Patrol Council, the 18,000 frontline inspectors who make up the National Immigration and Naturalization Service Council, the American Federation of Government Employees, as well as the American Immigration Lawyers Association.

We must do all we can, Mr. Chairman, in this time of war against al Qaeda, to ensure that our borders are as secure as they need to be.

I want to thank the gentleman from Kentucky (Chairman ROGERS) for working with this and supporting us on this amendment, and I appreciate also the language to be included as report language in support of this amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. TURNER of Texas. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, the gentleman has offered what I consider to be a very helpful amendment. I think it is needed, and we are happy to agree to it. The ranking member of the Select Committee on Homeland Security has been very helpful to us.

Mr. SABO. Mr. Chairman, will the gentleman yield?

Mr. TURNER of Texas. I yield to the gentleman from Minnesota.

Mr. SABO. Mr. Chairman, I congratulate the gentleman on a very good amendment. It is a much needed study.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. TURNER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. STUPAK

Mr. STUPAK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STUPAK:

Page 2, line 16, after the dollar amount, insert the following: ''(reduced by $500,000)''.

Page 22, line 18, after the dollar amount insert ''(increased by $500,000)''.

Mr. STUPAK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. STUPAK. Mr. Chairman, this amendment is very straight forward. It would simply provide $500,000 for the Department of Homeland Security to conduct a thorough study on how these first responder grants have been spent over the past 2 fiscal years.

In particular, we need to know how much of the $4.4 billion allocated for Homeland Security grant programs have been spent on upgrading local and State first responder communication systems.

Why is this necessary? Because after 9/11, the Nation finally realized what those of us in law enforcement have known for years, that there is a huge gap in how we respond to natural and terrorist-related disasters. First responder agencies cannot talk to each other.

Last month, the independent 9/11 Commission held hearings to examine

the communication gaps between public safety agencies during their response to attacks on the World Trade Center. What the commission learned was that fire chiefs in the World Trade Center lobbies new little of the conditions upstairs. They did not hear anything about what the police in helicopters were seeing as they circled the buildings, that the towers may or would collapse.

As we now know, Federal reports on the 9/11 Federal emergency response concluded that the inability of first responders from different agencies to talk to one another was a key factor in the deaths of at least 121 firefighters.

Since then, the Federal Government has called upon the States and local governments to be even more vigilant and prepared for possible attacks of terrorism. Yet our public safety agencies continue to lack the ability to communicate with each other between agencies and between jurisdictions. Firefighters cannot talk to police, local police cannot talk to state police or emergency personnel, and so on and so on.

Despite the creation of the Department of Homeland Security and grant programs for first responders, program funding for modernizing their communications system has fallen far short of the $6.8 billion that is needed to make the Nation's public safety agencies interoperable, in other words, being able to talk to each other.

In fiscal year 2003, only $100 million was devoted to local public safety communications systems, and no funding at all was available in fiscal year 2004.

The bottom line is there is an awful lot of talk here about interoperability, but no real, reliable resources to make that happen so agencies can talk to each other in times of catastrophic disaster or terrorist attacks. All we have are 2 years of grant programs within DHS, but none specifically for interoperability; and we do not know where that money is going.

So far, neither I nor my staff can find any evidence of oversight on where the billions of dollars have gone after these grants have been sent to the States and local governments. No one can tell me how much of that money has gone to interoperable radio communications. I think we need to know how much money is being spent so we have a better idea on what the priorities are for our Nation's first responders.

I know for a fact that upgrading radio equipment is a priority in my district, which is large, rural, and on the Canadian border, and, at times, unfortunately, porous, where those who do not belong can sneak into the United States.

Again, my amendment takes $500,000 out of the office of the Under Secretary of Management, an account that receives a $50 million increase in this bill over fiscal year 2004. It puts that $500,000 for this needed study under the salaries and expenses account under title III, the preparedness and recovery title.

For 30 years, I have been associated with law enforcement, 12 years as a police officer. For 30 years, I have been hearing that we will have radios so we can talk to each other and to first responders. After 30 years and many deaths, it is time we move forward on making interoperability for all first responders available so we can talk to each other, especially in times of peril.

Mr. ROGERS of Kentucky. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if the gentleman would remain at the desk, I really appreciate the gentleman bringing this issue before us, interoperability of communications amongst our first responders. One of the great lessons we learned, of course, out of 9/11—and the evidence has been ongoing since that time—is to go all out to try to create interoperability. It is a fairly complicated matter, as we now find out, and very expensive.

So the gentleman's amendment that would set aside more money to examine how this can take place really is not necessary, because the Department already has an ongoing operation to collect that data from the States and the communities and the first responder units.

Not all the States, of course, have decided what grant money will be spent on; and, of course, all the data is not yet automated. But the Office for Domestic Preparedness is currently building a master database, it is supposed to be completed in the next few months, to automate all state and local spending details, so we will then have what I think will be a fairly comprehensive inventory of where we are, which is what the gentleman, I think, is seeking in his amendment.

So I would hope, perhaps, that the gentleman might withdraw the amendment, with my assurance that the Department is already involved in exactly what I think he seeks in his amendment.

Mr. STUPAK. Mr. Chairman, will the gentleman yield?

Mr. ROGERS of Kentucky. I yield to the gentleman from Michigan.

Mr. STUPAK. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the chairman is right, we have been trying to address this issue. I know, having been involved in law enforcement and worked with an interagency drug task force, we can bring in radio equipment so everyone can talk to each other no matter what frequency they are on. And I know through the leadership of the chairman and the ranking member and many Members who are concerned about this, as we heard from the Fire Caucus earlier, those Members, there is actually mobile equipment that we can bring in and help out.

We have taken a good step forward. I want to make sure we keep moving in that right direction. That is why I wanted this study, as I continue to work in my own committee to try to set up a fund to get this interoperability realistic throughout this country, because it is going to cost $6.8 billion; and I am concerned about my rural committees as well as the big cities.

Mr. Chairman, the chairman has given me those assurances, and his word is always good with me. So I will withdraw my amendment, with those assurances. I look forward to working with the chairman and ranking member. I appreciate the gentleman's continued support on this issue and thank him for the opportunity of raising it.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

□ 2100

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $13,000,000.

OFFICE OF THE CHIEF PROCUREMENT OFFICER

For necessary expenses of the Office of the Chief Procurement Officer, $7,734,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $60,139,000.

DEPARTMENT-WIDE TECHNOLOGY INVESTMENTS

For development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, $211,000,000, to remain available until expended: *Provided*, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $82,317,000, of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Under Secretary for Border and Transportation Security, as authorized by subtitle A of title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.), $10,371,000.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note), $340,000,000, to remain available until expended: *Provided*, That of the funds appropriated under this heading, $254,000,000 may

not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 3; (2) complies with the Department of Homeland Security enterprise information systems architecture; (3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (4) is reviewed and approved by the Department of Homeland Security and the Office of Management and Budget; and (5) is reviewed by the General Accounting Office.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $4,611,911,000, of which $3,000,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to Public Law 103–182 and notwithstanding section 1511(e)(1) of Public Law 107–296; of which not to exceed $40,000 shall be for official reception and representation expenses; of which not to exceed $176,162,000 shall remain available until September 30, 2006, for inspection and surveillance technology, unmanned aerial vehicles, and equipment for the Container Security Initiative; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; and of which not to exceed $5,000,000 shall be available for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration: *Provided,* That for fiscal year 2005, the aggregate overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated in this Act may be available to compensate any employee of U.S. Customs and Border Protection for aggregate overtime and premium pay, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Under Secretary for Border and Transportation Security, or a designee, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies: *Provided further,* That none of the funds appropriated in this Act may be obligated to construct permanent Border Patrol checkpoints in the U.S. Customs and Border Protection's Tucson sector: *Provided further,* That the Commissioner, U.S. Customs and Border Protection, is directed to submit to the Committees on Appropriations of the Senate and the House of Representatives a plan for expenditure that includes location, design, costs, and benefits of each proposed Tucson sector permanent checkpoint: *Provided further,* That U.S. Customs and Border Protection shall relocate its tactical checkpoints in the Tucson sector at least an average of once every 14 days in a manner designed to prevent persons subject to inspection from predicting the location of any such checkpoint.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, $449,909,000, to remain available until expended, of which not less than $321,690,000 shall be for the development of the Automated Commercial Environment: *Provided,* That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 3; (2) complies with U.S. Customs and Border Protection's enterprise information systems architecture; (3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (4) is reviewed and approved by the U.S. Customs and Border Protection Investment Review Board, the Department of Homeland Security, and the Office of Management and Budget; and (5) is reviewed by the General Accounting Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of laws relating to customs and immigration, $91,718,000, to remain available until expended.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 2,300 (2,000 for replacement only) police-type vehicles; $2,377,006,000, of which not to exceed $5,000,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; of which not less than $100,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $200,000 shall be for Project Alert; and of which not to exceed $16,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided,* That none of the funds appropriated shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Under Secretary for Border and Transportation Security may waive that amount as necessary for national security purposes and in cases of immigration emergencies: *Provided further,* That of the total amount provided, $3,000,000 shall be for activities to enforce laws against forced child labor in fiscal year 2005, of which not to exceed $2,000,000 shall remain available until expended.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal air marshals, $662,900,000, to remain available until expended.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account, not to exceed $478,000,000, shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $39,605,000, to remain available until expended: *Provided,* That none of the funds appropriated under this heading may be obligated for ATLAS until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 3; (2) complies with U.S. Immigration and Customs Enforcement's enterprise information systems architecture; (3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (4) is reviewed and approved by the U.S. Immigration and Customs Enforcement's Investment Review Board, the Department of Homeland Security, and the Office of Management and Budget; and (5) is reviewed by the General Accounting Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $26,179,000, to remain available until expended.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement; and at the discretion of the Under Secretary for Border and Transportation Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $257,535,000, to remain available until expended: *Provided,* That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to U.S. Immigration and Customs Enforcement requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2005 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services

pursuant to the Aviation and Transportation Security Act (Public Law 107–71), $4,270,564,000, to remain available until expended, of which not to exceed $3,000 shall be for official reception and representation expenses: *Provided*, That of the total amount provided under this heading, not to exceed $2,016,814,000 shall be for passenger screening activities; not to exceed $1,406,460,000 shall be for baggage screening activities; and not to exceed $847,290,000 shall be for airport security direction and enforcement: *Provided further*, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2005, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,447,564,000: *Provided further*, That any security service fees collected pursuant to section 118 of Public Law 107–71 in excess of the amount appropriated under this heading shall be treated as offsetting collections in fiscal year 2006: *Provided further*, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners: *Provided further*, That notwithstanding section 44923 of title 49 United States Code, the Federal Government's share of the cost of a project under any letter of intent shall be 75 percent for any medium or large hub airport and 90 percent for any other airport, and all funding provided by subsection (h) of such section, or from appropriations authorized by subsection (i)(1) of such section, may be distributed in any manner deemed necessary to ensure aviation security and to fulfill the Federal Government's planned cost share under existing letters of intent.

POINT OF ORDER

Mr. MICA. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MICA. Mr. Chairman, I make a point of order against page 14, line 9, beginning with the words ''provided further'' through line 19.

This provision violates clause 2 of rule XXI. It changes existing law and, therefore, constitutes legislating on an appropriations bill in violation of House rules.

The CHAIRMAN. Does any Member desire to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this proviso explicitly supersedes existing law. The proviso, therefore, constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained, and the proviso is stricken from the bill.

AMENDMENT NO. 17 OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. DEFAZIO: Page 14, strike the proviso beginning on line 5.

Mr. DEFAZIO. Mr. Chairman, I do not rise to defend the Transportation Security Administration as a paragon of efficiency, although I have been impressed in recent meetings, hearings, closed and open door, with the acting head, Admiral Stone. And in particular, he seems to be willing to address the enduring problems with the centralized bureaucracy, the fact that hiring, firing, management decisions, scheduling decisions are all being made out of Washington, D.C. instead of at the local level by the local Federal Security Director.

But I want to give him a chance to succeed. I want to make the system work as well as possible. And the cap that has been imposed, I think out of frustration by members of this committee, which is shared by members of the Subcommittee on Aviation and the Select Committee on Homeland Security, about the past problems with management of this agency is not the right solution.

We talk about right sizing the TSA. Well, the way to do that would be to do a bottom-up assessment of what is necessary to meet the mandates of the Transportation Security Act, to screen the baggage, to properly screen the passengers.

It is my understanding that in the near future we may hear that the Transportation Security Administration is going to fill the huge gap where individuals who work in the airport, vendors and others, caterers, would have to go through screening on a daily basis, which will increase the load. Passenger loads are coming back as people return to the air. But because of this arbitrary cap of 45,000, we find out that according to the GAO we are not meeting the mandate on 100 percent electronic baggage screening because of staffing shortages.

The Secretary of Transportation, Secretary Mineta, has abandoned the promise and the contract with the American traveling public that they will wait no more than 15 minutes in line. There have been lines reported at some airports up to 4 and 5 hours; 1 and 2 hours are regularly at other airports. That means the airlines are losing more and more of their business travelers, which is causing the industry tremendous problems.

We need predictability when business travelers and others go to the airport. We need some assurances that they will be able to get through expeditiously and quickly. And even more than that, we need assurances that they will be properly screened and that their baggage will be properly screened. I believe because of this cap we are not meeting any of those charges.

A number of the largest airports in the United States, 22 of the 25 focus airports that the Transportation Security Administration deems to be at high risk of delays this summer; these are 22 of the 25 airports at high risk of travel delays this summer, the Transportation Security Administration, because of the cap, has reduced screener staffing resources by the equivalent of 3,100 full-time screeners over the last year, about 20 percent of those airports. That means that many Americans are going to be waiting in line for half an hour or an hour or more because of these arbitrary caps.

I do not think this is the way to get at the management problems of the TSA. It would be better for the committee to mandate that the agency, prior to the start of the next fiscal year, go through an assessment, and they claim they are doing this, but mandate it perhaps, that they would decide from the ground up, from every position in the agency how many people they need at each airport and set a performance standard, a standard both in terms of security that has to be met and a standard in terms of how long it is going to take people to get through those airports.

It is not fair to the public to say, well, you are paying this additional tax for security and you are paying all of these other taxes, a very large part of the ticket, but we cannot afford enough people to get you through here in less than 3 hours. That is not right.

I know many of my colleagues have experienced this firsthand, and they certainly have received complaints from their constituents, particularly in a number of these 25 focus airports around the country.

I do not do this out of some sort of very parochial need, because my own local airport is doing quite well. But I do it out of a general concern for the industry, the traveling public, safety, security, and convenience, and the proper management of the TSA, and wanting to give the new acting director a chance to make it work right by removing this cap, admitting that there were mistakes made in the past, and we expect that they will not be repeated in the future.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, since 2002, we have included language in either the Transportation bill that preceded Homeland Security, and then the Homeland Security bill in 2004, language that limits the number of screeners to no more than 45,000 full-time equivalents. In my judgment, that language is necessary to force TSA to use taxpayer dollars reasonably and efficiently.

When TSA was first organized, it overhired and mismanaged millions of dollars. When they first came to the Congress when it was a part of the Transportation Department, they said we think we can get by with 30,000 screeners. They came back later and said no, we think it is going to be 35,000. Then they came back later and said 40,000, then 45,000, then 50,000, then 55,000. Finally, I said ''Time. Let us talk. What is going on here?'' And others did the same thing.

And so we went through their needs and we were careful to determine the optimum amount of people that would

be necessary to screen our customers at the airports.

During this zealous hiring phase at the outset, many airports, particularly small ones, had TSA employees screening a couple of passengers a day. For example, Clinton County Airport in New York, and I do not want to pick out examples necessarily, but there is no other way to do it; Clinton County Airport in New York had 20 screeners. How many passengers a day did they have? Twelve. Twenty screeners for 12 passengers a day.

Other airports, Massena and Adirondack, both in New York had the same number of screeners as daily passengers. What we had at that time, and people said so, is that TSA was an acronym for Thousands Standing Around, waiting for a passenger that needed to be screened.

Over the last 2 years, this cap has forced TSA to reshape that workforce so that more screeners have now been assigned in high-traffic airports and fewer in small airports, while still maintaining high levels of security. TSA has also begun to hire part-time screeners to work just during the peak hours, and the rest of the day when we do not need them they are not there. TSA recently created a summer plan to mitigate the anticipated effects of a busy travel season, given the size of the screener workforce. They are right sizing even as we speak.

TSA needs to do more. The agency is still too focused on screeners. It is doing a poor job of phasing in new technologies that would reduce our dependence on screeners.

Here are two examples of cost-savings that can result from using technology: Lexington, Kentucky, an airport I fly in and out of each week, invested just $3.5 million to install explosive detection machines in-line, with the conveyor belt, which allowed TSA to use 4 screeners per shift, rather than the 30 that would have been required using explosive trace detection equipment in the lobby. Not only that, people move through quicker.

There are even bigger savings in larger airports. San Francisco predicts that by having a complete in-line explosive detection system, it will require 100 less screeners, saving about $5 million in salaries and compensation each year.

Deleting this cap would be very premature. Instead of forcing TSA to continue to restructure its workforce to handle high-traffic levels at some airports, and to procure new equipment that could greatly reduce our reliance on screeners, this amendment would permit TSA to request an exemption from this cap and return to the days of ''thousands standing around.''

If we delete this cap, Mr. Chairman, 5 years from now I am convinced we will have 70,000-plus screeners and no new technology in place, and we are back to where we were.

□ 2115

Mr. PASCRELL. Mr. Chairman, I rise in support of the amendment.

I can agree with the gentleman from Kentucky (Mr. ROGERS) on much of what he has said. Deployment and manpower must work hand in hand. So you have in some airports too few screeners. You have other airports, as the gentleman has described it, too many. However, when you look at the attrition rate, and I would ask the chairman to look at this please, there is so much of a turnover, that that is causing, as the numbers that I have studied, an insufficient amount of screeners many times at many airports. And that is why I support the DeFazio amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. PASCRELL. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. The gentleman makes a very good point. The TSA is still operating under the system where they hire nationally. So that when there is a vacancy in San Francisco or New Jersey or where have you, that has to work its way up to the national headquarters, and it is a very inefficient way for TSA to replace people who have quit their job. We are trying to force the Department to at least regionalize the hiring process, and I would like to see it even localized so that we can replace people quickly, but the gentleman makes a good point.

Mr. PASCRELL. Reclaiming my time, I agree with what the chairman is saying, but many times we put the cart before the horse. We do not have a universal vulnerability and risk assessment, and perhaps we are spending money in the wrong places. This is a problem. A better method would be a bottom-up approach. Security decisions should be made by evaluating what each airport needs, what each airport needs to screen passengers and baggage effectively and efficiently. It would seem that should be our priority.

The reason why I believe the threshold should be taken away and not suggesting another number to take its place is that you have a very difficult period in air travel coming up, Mr. Chairman. The summer travel season gets busier and busier. People are going to wonder why lines are getting longer and longer. I do not know if the TSA is prepared to act accordingly and quickly, to be very honest. Because of the provision that this amendment addresses, the TSA simply does not have the manpower to do the job.

The federalization of airport passenger screeners has been a rocky road, but this cap has only added to the problems. It has hurt the ability of the TSA to manage the problem areas such as the mile-long lines at Atlanta's Hartfield Airport. The Congress has mandated 100 percent electronic screening of checked baggage at several airports this year; the electronic baggage mandate was not met due to a glaring lack of screeners.

Mr. DEFAZIO. Mr. Chairman, will the gentleman yield?

Mr. PASCRELL. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Chairman, the other point is the chairman talked about the fact that we need to replace the screeners with technology. I agree 100 percent as does the gentleman from Florida (Mr. MICA). Unfortunately, this budget does not contain this money. It is $231 million less than we authorized for that kind of technology.

Mr. PASCRELL. Reclaiming my time, I witnessed the screener cap issue firsthand when there were media reports that Newark International Airport was not meeting the baggage screening mandate. At one point this past year, Newark was dangerously understaffed to the point where the EDS machines, and we know how sensitive they are; we know how much effort we have put into this, thanks to the Committee on Transportation and Infrastructure, thanks to homeland security, they were sitting idle. No one was there to operate them despite high passenger traffic.

The airport is now meeting its mandates, but only with the temporary assignment of an extra 150 screeners to deal with the summer months. Come the fall, we may be short-staffed again. So what is actually needed is clearly more than the arbitrary level set in the bill. That is what I am addressing, Mr. Chairman, through the Chair, and that is, I believe the 45,000 number is arbitrary. And I would ask the gentleman in his capacity as the chairman, and he has looked at this and the sensitivities that exist in all of these amendments and issues, to please look at this, what has happened to these EDS machines that are on-line but there is no one to staff them.

I think that the 45,000 figure, that cap, that threshold is not realistic. I have looked at the data. I have examined the small airports, the large airports. I agree with everything that you have said in terms of the ridiculousness of many screeners standing around all day doing nothing. We know that there needs to be a deployment change. I am simply asking, we should not have this threshold number unless we have the data to support it. And I would ask the gentleman to reconsider that, Mr. Chairman.

Mr. MICA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to also thank the committee Chair, the gentleman from Kentucky (Mr. ROGERS), for his leadership on this issue, the great job he is doing on homeland security. The gentleman from Oregon (Mr. DEFAZIO) and I have the honor and privilege of serving with him as the ranking member of the Subcommittee on Aviation. I understand the frustration of the gentleman. Both the gentleman from Oregon (Mr. DEFAZIO) and me are very frustrated with the operation of TSA. However, I rise in opposition to eliminating the screening cap of 45,000 that the Committee on Appropriations has placed on TSA.

I did not coordinate my remarks with the gentleman from Kentucky (Mr.

ROGERS), but ironically he got up and said we were promised in the beginning, it took, they said, maybe 26,000 it would take the private sector to add fewer screeners; and we can debate the merits and or demerits of what they did. And then we were told 30,000; and then we were told 35,000 would do the job; and then 40,000 would do the job. Only give us 50,000; and one day we woke up and there were 60,000 TSA employees.

Now, they did a job that was mandated by Congress, and they put all those folks out there. But at some point it got to be exactly what the chairman described. Thousands standing around. It became a joke. And what we had to do was right-size that agency. We got something in place; and it was, no question, overstaffed.

One of the problems with this is that a defect in the organization of TSA, and this is no offense to TSA, Congress organized it. But we created basically, and I have said this publicly before, a Soviet-style Moscow-centered, in this case Washington-centered, bureaucracy.

The Chair just described the process of hiring a person, a vacancy in San Francisco and then waiting days and weeks. We just waited 6 months for TSA to finalize its most recent screener allocations. They just released them. I am the chairman. I represent Orlando International Airport at one of the busiest tourist destinations in the United States. We needed 124 part-time positions before Christmas. I still do not have the part-time screeners that we need there. They cannot get it right.

Please do not believe that bigger government, just give us 10,000 more, 20,000 more, will solve this. It will not. It has to be decentralized. It has to be localized. And that is what we intend to do.

We do have 14 airports that have automated inline screening systems, and you heard the reduction in personnel, just at one example; and more will come online, so we actually need fewer screeners.

The performance rate of even the screeners we have, I hate to say this, I invite every Member of Congress to receive the classified results. The Inspector General testified before us publicly; we had Federal screening and five demonstration public screening operations compared with all Federal screening operations, and the Inspector General described the results that they performed equally poorly.

I say that TSA is mostly a mirage. We are fortunate that we have secured cockpit doors, that we have armed air marshals, that we in fact have pilots that have been armed. That gives us this protection, not this mirage you see. A bigger mirage is not going to solve it. What is going to solve it is decentralization of the process and then better technology. Go to New Jersey. You do not need an invitation. See our test center. See equipment that will detect weapons, will detect explosives. That is what we need in place.

I will say, no matter how hard they try and how many employees they get, 40, 50, 60,000, they will never get it right from Washington in this bureaucratized, centralized operation. It will never be able to service the needs, the requirements of 440 airports with different schedules.

Think of Dulles out here. They are going to have Independence Air with 300 additional flights. Well, that is not in the allocation that they just took 6 months to get. It will take them months and months to get it right. So we need to vote down this amendment and correct the deficiencies in TSA.

Ms. BERKLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to strongly support the DeFazio amendment to eliminate the 45,000-person cap on the number of TSA screeners.

When Congress created the Transportation Security Administration and tasked them with protecting our aviation, rail and transit systems, it was expected that Congress would provide the agency with the necessary resources. However, Congress has not done its job.

Last year, a cap of 45,000 was placed on the number of Federal screeners at our Nation's airports. This number is not only an arbitrary figure; it does not give our airports enough personnel necessary to screen passengers. We have an obligation to enable the TSA to hire the number of people needed to ensure the security of the flying public in the safest and most efficient way.

Now, I cannot speak for the airport in Clinton, New York; but I can speak for the airport in Las Vegas, Nevada. Officials at McCarran Airport in Las Vegas have struggled to manage the long lines as a result of inadequate personnel. In January, departing passengers stood in line for up to 4 hours after attending one of our largest conventions. This is absolutely unacceptable for a community that depends on its airport to deliver tens of millions of annual visitors.

Not only does this cause passenger frustration; it poses additional security risks. Thousands of people jammed into a small area could create yet another potential terrorist target.

In our attempts to secure one aspect of our aviation system, we should not expose another flank to potential attack. TSA has worked with the Nevada delegation to temporarily reduce wait times by giving the Federal security director more flexibility and personnel. But McCarran screeners are working over 50 hours a week to meet the demand. We cannot expect them to continue to work these hours. At some point, they are either going to quit their jobs or their efficiency and effectiveness will be compromised, which in turn will impact on passenger safety. We must find a long-term solution.

McCarran International Airport is the life blood of the Las Vegas Valley. Last year, nearly 36 million people came to Las Vegas; 46 percent of them arrived by air. Passenger traffic at McCarran has grown 15 percent just this year alone, and this growth is expected to continue. New airlines have added service and established airlines continue to expand their existing networks to include more flights to southern Nevada.

Officials at McCarran and local FSD have worked tirelessly to improving the screening process for passengers. This summer, seven new checkpoints will be opened by next fall and an inline baggage screening system will be operational. We have at McCarran the latest technology, but it is time for Congress to do our part.

Instead of mandating a cap on a screener workforce, let us give the TSA the resources it needs to secure our skies. Give the TSA the ability to hire the screeners it needs to achieve its mission, keeping the flying public safe.

This is about more than aviation security. This is about national security. We cannot cut corners or attempt to play politics with something as important as the lives of our pilots, our crew members, our passengers, and America's airport personnel.

Mr. SABO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I suppose if it were an ideal world, I would prefer not to have staffing caps and would like to think I could trust an agency to manage the staffing.

□ 2130

There is nothing about TSA that gives me that confidence. I have dealt with endless agencies over the years. I have never dealt with one more frustrating to deal with in all my years of public service than TSA.

There was maybe no option other than top-down development in the agency at the beginning, but it was chaotic. It was hiring people without any thought. It was not managing contracts. It was wasting money all over the place. Today, there is no reason to continue that top-down management. It does not work.

I am impressed by the new director from what he says. Maybe the agency can change; but if we say, have your own way, those pressures will disappear. There are times when we have agencies when they are not working, we have got to force them to make some decisions. They clearly mismanaged personnel, misallocated personnel all over the country. Incredibly bureaucratic, top down, people at the bottom cannot make decisions, cannot hire people. I do not think they can train people, maybe a little bit.

So I understand why my colleagues are frustrated. If I thought that giving them more people would solve their problem in a fashion, then I might be more sympathetic, if not repealing the ceiling or adjusting it; but I have no confidence that they would handle and manage additional people. I think we have to force them to make those judgments, to reallocate those sources.

Speaking a hypothetical, I have no trust that simply adding people to them are going to relieve lines in certain airports. The reality is lifting the cap in this bill does nothing about the staffing and capping limits for this summer. So I think we have no option but keeping this cap until this agency is restructured, we get some real bottom up management, with good people in place at the local level.

Let me just conclude, again, by saying I have never seen an agency so mismanaged from the beginning and totally wasting resources in my life that I think having a cap is the only responsible thing to do; and I think we have to maintain it, and keep their feet to the fire.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

I hope we can put aside the unnecessary and overblown hyperbole that has at times crept into this discussion such as Moscow-style bureaucracy; TSA is a joke. TSA is not a joke. This agency, its personnel are engaged in the very serious business of maintaining security at our Nation's airports, for air travelers, for the airline business in America. They have done an extraordinary job under extremely difficult circumstances, tight timelines, unavailability of space, equipment that was not forthcoming, equipment that was not ready to do the task that was set before them; and I think rather than disparage this agency and these personnel who came in with a very high degree of spirit to do the right job for America, we ought to commend the individual workers for making the effort and continue our focus on redirecting the management and setting performance standards. Performance standards would be far better than an arbitrary limit on the number of personnel.

I have enormous respect for the gentleman from Kentucky. We have worked together on so many issues over many, many years; and I do not think that he came in and just picked an arbitrary number just to show that he is in charge. Out of great frustration, out of very serious concern for getting the right number, as my colleague from Minnesota said, they picked a number and said get down to this level; but that is not the right way to achieve the best out of this agency.

I agree that at the outset, after enactment of the Air Traffic Security Act, that the agency went in and did many things. A new agency was created, did many things at the same time. They rushed in, they hired many more people than we know in hindsight to be necessary for the job; but remember, they did not know electronic detection screening equipment would be available. They had a deadline to meet within a year. We all agreed in this body that that was a timeline we were not going to budge from; we were going to insist that this deadline be met; that if they could not get the EDS equipment in place, they would have to do hand screening, they would have to do screening with canines; that there were going to be huge time requirements and personnel; they would need more people, and they did not know how many were going to be required at various airports.

So they put people in place. They met the goal that we set forth in the authorization law, and then they went about the task of right-sizing. Right-sizing does not necessarily mean downsizing, and removing the cap does not necessarily mean adding more personnel, but just arbitrarily imposing a cap is not going to achieve the goal of better management of standard-based management of this agency. I think under Admiral Loy and his successor as head of TSA, Admiral Stone, that the process is underway of decentralizing the decisionmaking on locating personnel.

For example, in the Minneapolis/St. Paul airport area responsibility, the Federal security director has right-sized that facility by shifting personnel to among the various airports under his jurisdiction. In Duluth, an area that I know very well, the Federal security director has several airports in northern Minnesota under his jurisdiction. He has moved TSA personnel from those airports that were overstaffed and put them to airports where they were understaffed. They have moved to put in place part-time personnel where that fits.

There has to be much more of this kind of decentralization of decisionmaking on allocation of personnel.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. OBERSTAR) has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 1 additional minute.)

Mr. OBERSTAR. Mr. Chairman, so the answer is right-sizing, not necessarily down-sizing arbitrarily.

This year we are seeing a rebound in air travel. There is going to be a 6.8 percent, 7-plus percent increase in air travelers. That will mean an increase in demand for screeners. To put an arbitrary cap on screeners at a time when air traffic is growing, when the airlines are beginning to rebound, I think is not responsible.

I would hope that the gentleman's amendment would be supported and that we allow a process; and our committee, under the leadership of the gentleman from Florida (Mr. MICA), has been vigorous in this pursuit of oversight on this agency and are keeping their noses to the grindstone through our oversight process. Insisting on right-sizing and decentralization of decisionmaking for allocation of personnel is a far better way to go than just say here is an arbitrary cap that will result in arbitrary results.

Mr. TURNER of Texas. Mr. Chairman, I move to strike the requisite number of words.

I want to thank the gentleman from Oregon (Mr. DEFAZIO) for his leadership on this very critical issue, and I am glad to see that we have good people on all sides of this issue tonight.

I joined with the gentleman from Oregon (Mr. DEFAZIO) in offering this amendment. I do agree with the ranking member that when this screening cap was put in place more than a year ago, we were looking at a TSA that was a bureaucracy out of control. It had hired more than 60,000 screeners, and it was still growing. There was no clear strategy or budget plan. It was unknown how much technology would help in moving people and baggage through screening checkpoints. So at that time, the cap made a lot of sense, and it certainly sent a very strong message to the Department.

Today, however, we have a very different situation. TSA has met, to a large extent, demanding congressional requirements and has its leadership and budget team in place. As a testament to the public's trust in air safety, air traffic has increased dramatically. Yet we have the same screener cap in place, and it is impeding the ability of the Department to manage a growing passenger load.

Many Americans are all too familiar with the long security lines at airports. Many of us travel and see those long lines. I see them regularly at Reagan airport. Many see it at Dulles. I also see them at the Houston airport.

What is less obvious than the long lines is the damage that screener understaffing is doing to aviation security. I have had a chance to talk to some of the airline screeners in Houston who are afraid to openly acknowledge the way their operations are run. When the lines get too long, they simply push people through. That kind of conduct does not build confidence in airport security and certainly is demoralizing to those who work so diligently to protect the public at our airports.

The General Accounting Office has reported that staffing shortfalls have prevented the TSA from checking or sending checked baggage through electronic screening, and we have heard from screeners over and over again that passenger lines get longer, and the pressure that I mentioned is on them to move the passengers through faster. According to many media accounts, even though TSA regulations require four screeners per checkpoint, staffing shortfalls have, in some cases, reduced that to two.

In legislation that I joined the gentleman from Massachusetts (Mr. MARKEY) in introducing recently, we would require TSA to conduct a comprehensive study of its staffing needs so that Congress could provide the appropriate resources. Determining the right mix of full-time and part-time screeners and developing a model to measure the staffing needs at every airport is long overdue.

I understand TSA will have such a study completed shortly. If this study reveals the need for more screeners, we

should not tie the Department's hands with an arbitrary cap; and keep in mind, if we do not lift this cap, it is likely to remain in place for at least the next 15 months.

By eliminating the cap now, we are one step closer to making sure that the changes that need to be made in our airports can happen quickly when they are needed.

I urge my colleagues to join with us in supporting this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DEFAZIO. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Oregon (Mr. DEFAZIO) will be postponed.

The point of no quorum is considered withdrawn.

□ 2145

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MARITIME AND LAND SECURITY

For necessary expenses of the Transportation Security Administration related to maritime and land transportation security grants and services pursuant to the Aviation and Transportation Security Act (Public Law 107–71), $65,000,000, to remain available until September 30, 2006.

In addition, from fees authorized by section 520 of Public Law 108–90, up to $67,000,000 is available until expended: *Provided*, That in fiscal year 2005, other funds under this heading may be used for initial administrative costs of such credentialing activities.

INTELLIGENCE

For necessary expenses for intelligence activities pursuant to the Aviation and Transportation Security Act (Public Law 107–71), $14,000,000.

RESEARCH AND DEVELOPMENT

For necessary expenses for research and development related to transportation security, $174,000,000, to remain available until expended.

ADMINISTRATION

For necessary expenses for administrative activities of the Transportation Security Administration to carry out the Aviation and Transportation Security Act (Public Law 107–71), $524,852,000, to remain available until September 30, 2006.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note) and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $5,171,220,000, of which $1,204,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990; and of which not to exceed $3,000 shall be for official reception and representation expenses: *Provided*, That none of the funds appropriated by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided by this Act shall be available for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation: *Provided further*, That notwithstanding section 1116(c) of title 10, United States Code, amounts made available under this heading may be used to make payments into the Department of Defense Medicare-Eligible Retiree Health Care Fund for fiscal year 2005 under section 1116(a) of such title.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $17,000,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $113,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $936,550,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990; of which $19,750,000 shall be available until September 30, 2009, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $1,800,000 shall be available until September 30, 2009, to increase aviation capability; of which $138,000,000 shall be available until September 30, 2007, for other equipment; of which $5,000,000 shall be available until September 30, 2007, for shore facilities and aids to navigation of which $73,000,000 shall be available until September 30, 2006, for personnel compensation and benefits and related costs; and of which $679,000,000 shall be available until September 30, 2009, for the Integrated Deepwater Systems program: *Provided*, That the Secretary of Homeland Security shall submit to the Congress, in conjunction with the President's fiscal year 2006 budget, a new Deepwater baseline that identifies revised acquisition timelines for each asset contained in the Deepwater program; a timeline and detailed justification for each new asset that is determined to be necessary to fulfill homeland and national security functions or multi-agency procurements as identified by the Joint Requirements Council; a detailed description of the revised mission requirements and their corresponding impact on the Deepwater program's acquisition timeline; and funding levels for each asset, whether new or continuing: *Provided further*, That the Secretary shall annually submit to the Congress, at the time that the President's budget is submitted under section 1105(a) of title 31, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Congress:

*Provided further*, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31 for that fiscal year: *Provided further*, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified. In addition, of the funds appropriated under this heading in Public Law 108–90 and Public Law 108–7, $33,000,000 are rescinded.

AMENDMENT NO. 11 OFFERED BY MR. SIMMONS

Mr. SIMMONS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. SIMMONS:

In title II, under the heading ''United States Coast Guard__acquisition, construction, and improvements'', after the first dollar amount insert ''(increased by $18,500,000)''.

In title IV, under the heading ''Science and Technology__research, development, acquisition and operations'', after the dollar amount insert ''(reduced by $18,500,000)''.

Mr. SIMMONS. Mr. Chairman, I offer this amendment because we have an obligation to preserve the Coast Guard's research and development dollars, especially as its mission has expanded to meet the challenges of the post-September 11 period.

The Committee on Transportation and Infrastructure, of which I am a member, authorized $18.5 million for research and development activities for fiscal year 2005. This is the fiscal year 2004 enacted level and the level identified by the Coast Guard for its need. Both the House and the Senate Coast Guard authorization bills for fiscal year 2005 authorized this level of funding.

Unfortunately, the bill before us today to fund the Department of Homeland Security does not explicitly protect a single dollar for the Coast Guard's R&D activities. Instead, as I understand the legislation, H.R. 4567 transfers these dollars to the Department of Homeland Security's Science and Technology Directorate.

I remind my colleagues that when we voted to create the Department of Homeland Security we mandated that all authorities, functions and capabilities of the Coast Guard be maintained intact under the authority of the service and that the Coast Guard be maintained as a distinct entity within the Department.

I have serious concerns about asking the Coast Guard to compete with the other science and technology demands of the Department of Homeland Security. Furthermore, the Coast Guard has the experience and knows best how to use its R&D funding to support its core

missions. We should not transfer that authority to a new entity.

My amendment to preserve the Coast Guard's R&D funding within the Coast Guard is consistent with current law and honors the commitment of this body to transfer the Coast Guard intact.

I would ask the chairman to work with me on this issue in conference.

Mr. ROGERS of Kentucky. Mr. Chairman, if the gentleman will yield, I appreciate the gentleman bringing this issue forward, and it is an important issue. But the Science and Tech Directorate of Homeland Security has assured us and the Coast Guard that all elements of the Coast Guard's R&D program will remain under the direct management of the Coast Guard.

I recognize the gentleman's concerns. We will work with him on this subject if the authorization bill retains R&D funding within the Coast Guard for fiscal year 2005.

Mr. LoBIONDO. Mr. Chairman, I rise in support of the amendment.

I thank the gentleman from Kentucky (Mr. ROGERS) for his comments, but I rise today in strong support of the Simmons-LoBiondo amendment, and I want to commend the gentleman from Connecticut (Mr. SIMMONS) for his leadership on this particular issue.

The intent of this amendment is pretty clear, that the transfer of the Coast Guard research and development money which was placed under the control of Science and Technology Directorate should go back to the Coast Guard where it belongs.

Earlier this week the Department of Homeland Security's Under Secretary for Science and Technology made a speech to the Brookings Institute in which he said that he would have oversight responsibility for the Coast Guard's research and development center. I strongly believe that this coupled with the funding transfer is in violation of section 888 of the Homeland Security Act.

Section 888 clearly states that all authorities, functions and capabilities of the Coast Guard must be maintained intact under the authority of the service. It further mandates that the Coast Guard has to be maintained as a distinct entity within the Department of Homeland Security. Any transfer of funding and oversight responsibility such as the one proposed and included in this bill not only violates these provisions but jeopardizes the integrity and the functional capabilities of the service.

When we were debating the Homeland Security Act and talking about the Coast Guard being included, it was only after assurances and guarantees that the Coast Guard would in fact be kept intact that we agreed that we would sign off on the transfer. While I do not think any disagree that the Coast Guard's primary mission is homeland security, it is not their only mission. They are responsible for all the initiatives that they had been working on prior to September 11, search and rescue, illegal drug interdiction, fishery law enforcement and environmental concerns. If these homeland security research and development dollars are left to the discretion of Homeland Security, we have no assurance these other programs will receive a single dollar.

As chairman of the Subcommittee on Coast Guard and Maritime Transportation, I take a great deal of interest in protecting the ability of the Coast Guard to continue to administer their own research and development funding.

For several decades the Service R&D Center has led efforts to develop new technologies in support of all its critical missions, not just maritime security.

Mr. Chairman, I think this is an extremely important issue. I want to thank the gentleman from Kentucky (Mr. ROGERS) for his continued understanding of how critically important this is, but I once again want to remind all of my colleagues that the gentleman from Florida (Mr. YOUNG), chairman of the full committee, myself as chairman of the subcommittee, and the ranking members of both the full committee and the subcommittee were in complete agreement only after we received assurance that these R&D dollars would be kept intact with the Coast Guard with all of their other missions.

I respectfully request that this amendment be favorably considered.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in strong support of the Simmons amendment. I thank my friend from Connecticut for bringing this important amendment to the floor.

This amendment will maintain the integrity of the Coast Guard as a distinct entity within the Department of Homeland Security.

Section 888 of the Homeland Security Act states that the Coast Guard shall be maintained intact with all of the service's authorities, functions, and capabilities.

The Coast Guard has submitted a plan for its research, development, test and evaluation activities for fiscal year 2005 which will concentrate on the development of strategies and resources aimed to improve the service's ability to perform its traditional missions.

The Coast Guard's traditional missions include search and rescue, drug and migrant interdiction, marine environmental protection, ice operations and aids to navigation.

It is imperative that we maintain the Coast Guard's ability to perform these important traditional missions in addition to the service's homeland security mission.

I am concerned that the transfer of research and development funds to the Department will be the first step down a slippery slope that will forever change the Coast Guard's abilities to balance its resources and personnel to carry out its many and varied missions.

We must protect the multi-mission nature of the Coast Guard.

We should provide funding for Coast Guard research, development, test and evaluation directly to the service in the same manner that we provide all other Coast Guard funds.

This is what the law demands and this is the right thing to do.

I urge my fellow members to support the Simmons amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. SIMMONS).

The amendment was rejected.

Mr. SIMMONS. Mr. Chairman, it was my intention to withdraw the amendment based on the assurances that I received from the distinguished chairman.

The CHAIRMAN. The amendment cannot be withdrawn. The amendment was defeated.

The Clerk will read.

The Clerk read as follows:

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $16,400,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,085,460,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 610 vehicles for police-type use, which shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at his or her post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,179,125,000, of which not to exceed $30,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,100,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $5,000,000 shall be a grant for activities related to the investigations of exploited children and shall remain available until expended: *Provided*, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2006: *Provided further*, That not less than $10,000,000 for the costs of planning, preparing for, and conducting security operations for National

Special Security Events shall be available until September 30, 2006: *Provided further*, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,633,000, to remain available until expended.

TITLE III—PREPAREDNESS AND RECOVERY

OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS

SALARIES AND EXPENSES

For necessary expenses for the Office for State and Local Government Coordination and Preparedness, as authorized by sections 430 and 801 of the Homeland Security Act of 2002 (6 U.S.C. 238 and 361), $41,432,000: *Provided*, That not to exceed $3,000 shall be for official reception and representation expenses.

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $3,423,900,000, which shall be allocated as follows:

(1) $1,250,000,000 for formula-based grants and $500,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT Act of 2001 (42 U.S.C. 3714): *Provided*, That the application for grants shall be made available to States within 45 days after enactment of this Act; that States shall submit applications within 30 days after the grant announcement; and that the Office for State and Local Government Coordination and Preparedness shall act within 15 days after receipt of an application: *Provided further*, That each State shall obligate not less than 80 percent of the total amount of the grant to local governments within 60 days after the grant award;

(2) $1,000,000,000 for discretionary grants for use in high-threat, high-density urban areas and for rail and transit security, as determined by the Secretary of Homeland Security: *Provided*, That not less than 80 percent of any grant to a State shall be made available by the State to local governments within 60 days after their receipt of the funds: *Provided further*, That section 1014(c)(3) of the USA PATRIOT Act of 2001 (42 U.S.C. 3714(c)(3)) shall not apply to these grants: *Provided further*, That of the funds provided, not less than $100,000,000 shall be used for rail and transit security grants;

(3) $170,000,000 for emergency management performance grants pursuant to section 1014 of the USA PATRIOT Act of 2001 (42 U.S.C. 3714), as authorized by the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reductions Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App): *Provided*, That total administrative costs shall not exceed 3 percent of the total appropriation; and

(4) $125,000,000 for port security grants, which shall be distributed under the same terms and conditions as provided for under Public Law 107–117: *Provided*, That section 1014(c)(3) of the USA PATRIOT Act of 2001 (42 U.S.C. 3714(c)(3)) shall not apply to these grants:

*Provided*, That except for port security grants under paragraph (4) of this heading, none of the funds appropriated under this heading shall be used for construction or renovation of facilities: *Provided further*, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) and discretionary grants under paragraph (2) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office for State and Local Government Coordination and Preparedness certified training, as needed: *Provided further*, That grantees shall provide reports on their use of funds, as deemed necessary by the Secretary of Homeland Security: *Provided further*, That the Office for State and Local Government Coordination and Preparedness shall complete the development of mission essential tasks by July 31, 2004; the fiscal year 2005 State grant guidance shall include instructions for the completion of State baseline assessments; a Federal response capabilities inventory shall be completed by March 15, 2005; and the Office for State and Local Government Coordination and Preparedness shall provide quarterly reports to the Committees on Appropriations of the Senate and the House of Representatives on the implementation of Homeland Security Presidential Directive-8, beginning October 1, 2004.

POINT OF ORDER

Mr. FOSSELLA. Mr. Chairman, I make a point of order that the words ''notwithstanding any other provision of law'' under the heading ''State and Local Programs'' violates clause 2 of rule XXI of the rules of the House of Representatives prohibiting legislation on appropriations bills.

This provision would make over $3.4 billion available for State and local grants in a way that could contradict statutes within the jurisdiction of the Committee on Energy and Commerce and other committees. The reason that we passed those statutes, obviously, is to ensure that money would be spent in a certain way.

In short, this language clearly constitutes legislation on an appropriations bill in violation of clause 2 of rule XXI of the rules of the House because it changes current law.

I therefore insist on my point of order.

The CHAIRMAN. Does any other Member wish to be heard on the point of order by the gentleman from New York (Mr. FOSSELLA)?

If not, the Chair is prepared to rule.

The Chair finds that the language cited explicitly supersedes existing law. The language therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained. That portion of the paragraph is stricken from the bill.

AMENDMENT NO. 16 OFFERED BY MR. SWEENEY

Mr. SWEENEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. SWEENEY:

In title III, under the heading ''Office for State and Local Government Coordination and Preparedness—State and local programs'', before the semicolon at the end of paragraph (1) insert '': *Provided further*, That the amount of any grant to a State in excess of any statutorily required minimum amount shall be made on the basis of an assessment of the risk of terrorism with respect to threat, vulnerability, and consequences''.

POINT OF ORDER

Mr. ROGERS of Kentucky. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman may state his point of order.

Mr. ROGERS of Kentucky. Mr. Chairman, I make a point of order against the amendment because it proposes to change existing law and constitutes legislation in an appropriations bill and therefore violates clause 2 of rule XXI which states in pertinent part, ''an amendment to a general appropriations bill shall not be in order if changing existing law by imposing additional duties.''

I ask for a ruling from the Chair.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

If not, the Chair is prepared to rule.

The Chair finds that this amendment includes language imparting direction. The amendment therefore constitutes legislation in violation of clause 2 of rule XXI.

The point of order is sustained and the amendment is not in order.

AMENDMENT NO. 3 OFFERED BY MR. SWEENEY

Mr. SWEENEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. SWEENEY:

In title III, under the heading ''Office for State and Local Government Coordination and Preparedness—State and local programs'', after the second dollar amount insert ''(reduced by $450,000,000)''

In title III, under the heading ''Office for State and Local Government Coordination and Preparedness—State and local programs'', after the fourth dollar amount insert ''(increased by $450,000,000)''.

Mr. SWEENEY. Mr. Chairman, I had hoped to introduce two amendments tonight that I think go to the core of what is our fundamentally greatest challenge as it relates to protecting the homeland, and that is to provide a proper structure within which the Secretary of the Department of Homeland Security and the Federal Government can properly and appropriately respond to the threats and risks that are presented out there unbiased, focused on the idea that the resources we have have to be directed to the places that are of greatest threat and at greatest risk.

The first amendment that I attempted to offer would have changed the formula, a formula that is pre-September 11, a formula that provides funding to jurisdictions regardless of the risk and the threat that it faces. I will quote one of my colleagues, one of the great members of the committee.

The gentleman from Tennessee (Mr. WAMP) said this bill, this funding proposition is not about cost sharing with local and State governments because we cannot meet all of those needs. I agree with him. We cannot meet all of those needs.

But this is about meeting the legitimate, precise and efficient needs of this Nation to protect its citizens. Our enemies, al Qaeda, the terrorist network, have something in common with us: They have finite resources, as do we. But one of the advantages that they have had is they are specifically targeted and are targeting their efforts to maximize the impact on the American people and the threat they present to us.

Therefore, Mr. Chairman, I propose this amendment in which we will transfer back to the President's budget number $446 million to the high threat fund that was established in the fiscal year 2003 supplemental.

□ 2200

The reason we need to do that is because we are actually slipping over the last couple of years in terms of the funds that we are sending out to meet the needs in the communities that are our greatest threat.

I will point to a couple of things. The national average per capita is $7.59; and, yet, jurisdictions like California, Texas, New York, Florida, and Illinois all are below $6, all in the $5 range in terms of what funding they are receiving through the formulation.

Now, we cannot vote on that particular part of activity in this amendment, but we can do something about it to give the Department itself the kind of flexibility and the Secretary the kind of flexibility he would need over the 2005 budget cycle to best protect the people of this Nation, and the Department is asking us to do this.

I will point to the statement of administration policy just released earlier today, and I will quote from it: ''The administration believes that the programs funded through the Department of Homeland Security should be better targeted toward terrorism preparedness. The bill does not provide the request to double funding for the risk-based Urban Area Security Initiative, UASI, program, but instead provides funding above the requested level for the basic State and local formula grant program.''

Mr. Chairman, there is a lot of work that needs to be done in the next couple of years, certainly in the next year. I think we ought to give Tom Ridge and the Department what they need, what they have requested, what they need in the coming year in order to best ensure that this Nation is indeed protected. The net result of what we have established here in Congress over the last 3 years is a reduction.

For example, I know the gentleman from New York (Mr. FOSSELLA) was on the floor earlier and talked about the needs of New York City. Let me say that New York City spends a billion dollars a year on security in counterterrorism intelligence; and, yes, they have received some money, $300 million to New York State, I think, in 2003; but do you know what they received last year, Mr. Chairman? $50 million, a 70 percent reduction from the year before.

When James Comey came from the U.S. Attorney's office to talk about Jose Padilla the other day, it did not seem to me there was a 73 percent reduction in New York City. It seemed to me they are in the bull's eye, as are other jurisdictions; and we need to make sure that the Secretary and the Department have the appropriate tools to do their job.

The President has asked us to do this. It is enacted in the President's budget. You can look on page 147 of that budget. You can read their statement. Secretary Ridge to the 9/11 commission and repeatedly to the Senate and to the House has asked for that kind of flexibility. We ought to be giving him that kind of flexibility. This Congress ought not to be micromanaging the Department of Homeland Security. I think most of us agree on that, but we ought to be providing them the proper tools and resources with which they can do their job. That is what this amendment proposes. It gives them what they have asked for in their budget, and I ask my fellow Members to support that.

Mr. ROGERS of Kentucky. Mr. Chairman, I rise in opposition.

Mr. Chairman, in this bill we attempted to be fair to everyone. We do not have all the money in the world. If we did, we could do perhaps what New York wants; but we do not, and we have got a whole country to deal with. There are two basic funds of money that we are talking about. One is the so-called formula funding grant program, and the other is specifically for the high-density, high-threat urban area fund. Two funds. The first one the formula grant program, 40 percent of that money goes to all the States; and everyone gets .75 percent, less than 1 percent of a fund that this year is $760 million total.

But 60 percent of even the formula grant program goes to States that are most populated, and I did some research. The money that went in that fund, in this year's bill, is $1.15 billion. Of the money that goes to New York State, in 2004 New York City got over half of the State money, in addition to the urban grant fund.

Now, fair is fair; and I want to be fair about this. New York City is a target. Everyone admits that. Other large urban areas are targets. Everyone admits that, and we want to help prepare. We want to do all that we can to be sure that New York City and the other large cities have all the monies that we can afford to pay for the Federal portion of what the local fire departments and the police departments and the EMT units and all do routinely. A portion of what they do is the counterterrorism effort that we are paying them for. Most of what they do, of course, are city and local and State duties.

But there is a limit to what we can do. Now, what this amendment does, Mr. Chairman, is take monies out of the formula grants that goes to Kansas, Kentucky and Florida and the other States and puts $450 million out of that account into the urban area's account. We already did a lot of that in the bill. We have already reduced the formula grants, already $450 million below last year's level. And the urban area grants in the bill are $280 million above last year's level. We have already robbed Peter to pay Paul, and now Paul wants more at the expense of Peter.

We have got to be sure that the rest of the country is protected as well. Just because you are not a large urban area does not mean that you are not at risk from terrorist attack. Hundreds of U.S. agricultural documents have been found in the al Qaeda caves in Afghanistan and other places. It has been reported that a significant part of al Qaeda's training manual is devoted to agricultural terrorism, a frightening fact when you recall the reported terrorist interest in crop dusters.

No community is immune from terrorism. We were reminded of that on 9/11 when Maine played a major part in the staging of the attack on New York City, little unpopulated Maine. We do not want to ignore Maine again.

In 1984, followers of Bhagwan Shree poisoned salad bars in 10 restaurants in The Dalles in Oregon, population 12,000, the largest germ warfare attack in history.

The terrorists that bombed the World Trade Center in 1993 trained in rural Pennsylvania, 30 miles from Three Mile Island in the months prior to that attack. Timothy McVeigh, who destroyed the Murrah Federal building in Oklahoma City, planned his attack and purchased the materials in Herrington, Kansas, population 2,500. In January 2000, Yousef Karoun was arrested in Blaine, Washington, population 3,600, after authorities determined he was on the FBI's lookout list and found evidence of nitroglycerin on his vehicle. United Airlines Flight 93 crashed into Shanksville, Pennsylvania, population 245, after being hijacked. Local fire departments quickly responded. In the fall of 2001, two people linked to an international terrorist group were arrested in Beecher Falls, Vermont, population 238, after attempting to cross the border.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. ROGERS) has expired.

(By unanimous consent, Mr. ROGERS of Kentucky was allowed to proceed for 1 additional minute.)

Mr. ROGERS of Kentucky. In September 2002 a suspected terrorist cell was broken up in Lackawanna, New

York, a city south of Buffalo, population 20,000. Five convictions. And on and on and on.

Mr. Chairman, we have treated the urban areas in this bill better than we did in the current year, and we cut the formula funding for the rest of the country by a huge amount in this bill. We think we have already treated the urban areas fairly. If we had more money, we could treat them even better; but with what we have, we think we have treated them fairly. I would urge Members to reject this amendment.

PARLIAMENTARY INQUIRY

Mr. SABO. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SABO. I just want to make sure where we are in the bill. Let me describe the problem. I think the last number read was the number on the bottom of page 22. The gentlewoman from Texas (Ms. JACKSON-LEE) had an amendment that would have come after that but before the top of page 23; but I think, in fact, the current amendment is amending the number on the top of page 23.

The CHAIRMAN. The portion of the bill currently open to amendment is the paragraph that spans pages 22 and 25, and it will remain so.

Mr. SABO. After this amendment?

The CHAIRMAN. After this amendment.

Mr. SABO. I thank the Chair.

Mr. KING of New York. Mr. Chairman, I rise in strong support of the Sweeney amendment.

On September 11, 2001, in my district and in the adjoining communities, hundreds and hundreds of innocent Americans were murdered. I made it my vow at that time never to allow that to happen again, do all that I possibly could to prevent that from happening again. We can have all the pages in this bill, all the money. The reality is it is only going to work if the money is going where it is needed. It is not a question of being fair. This is not some egalitarian movement here. This is to send the money to the areas of the country that need it the most. No area needs it more than New York City and New York State.

New York City was attacked in 1993. There were subsequent attacks thwarted in the Lincoln Tunnel, the Holland Tunnel, Federal buildings in New York, the Brooklyn Bridge; and, of course, there were the terrible attacks of September 11, 2001. The New York City Police Department alone, and this only encompasses 8 million of the 18 million people in the State, New York City alone spends almost $500 million in the NYPD. When you add the fire department and the OEM, it comes to almost $1 billion a year. Yet we are nowhere near being compensated for that. I am not saying this out of any parochial interest because I do not actually represent any area in New York City, but I live close enough to it to see the terrible damage that was done.

Mr. Chairman, right now we have hearings and investigations going on asking how could 9/11 have happened; why were we not better prepared. In many instances, it is unfair to look back in hindsight and say, well, this was wrong and that was wrong. But if it happens again, we have no excuse because we have been told what is going to happen. We know where it is going to happen. And I would ask those who oppose this amendment to say, what will they say if there is another attack and there is another 9/11 commission and asking why did you allow money to be spread all over the country rather than concentrate it on the areas that need it the most?

That is the issue before us tonight. It is not a question of so-called fairness. It is a question of the money being properly spent. If you are a police chief or you are a police commissioner and you are in a town or a village or a city, it is not your job to spread the police all over equitably. It is to assign them where they are needed the most, into the high-crime areas, the areas where the most danger is. The most danger right now, and this is not something that we ask for in New York, but by every account, New York is the prime target. That is where the money should be going. Instead, there is to me a dramatic shortfall in the money.

No, we cannot solve everything. We cannot give all the money that is needed, but it makes no sense at all to be moving back and to have that disparity grow larger and larger each year. We again will have to account to history if something happens again. We are here tonight. We can talk about, again, the various titles, the various sections, and the various allotments; but the gut question is, are we going to base this on a threat analysis? We have an Air Force which can only protect so many cities. Depending on the size, which are the cities most likely to be attacked? We do not send planes everywhere in the country. We put them over the cities where there is the highest threat. That is the way we have to allocate this money. It is not impossible to figure out. Give the Secretary of Homeland Security that discretion.

I realize because the amendment was ruled out of order that we cannot do all that should be done, but certainly the amendment of the gentleman from New York (Mr. SWEENEY) today to just put back in the money the President has asked for, we certainly on this side of the aisle should be those leading the charge supporting what the President of the United States wants to do to defend the country against terrorists coming to our land to destroy our people.

What I am saying in the interest of justice and to, certainly, people on this side of the aisle, stand with the President of the United States in the war against terrorism and remember that history will be our judge. If this amendment is voted down, we will have failed the test of history.

Mrs. LOWEY. Mr. Chairman, I move to strike the last word. I rise today as a strong cosponsor of this crucial amendment. I want to thank my colleagues, Representatives SWEENEY, MALONEY, FOSSELLA, KING and the rest of the delegation for their support and leadership on this issue.

Mr. Chairman, high-threat areas have been at a disadvantage when it comes to securing Federal homeland security funds for nearly 3 years now. As a result, the Urban Areas Security Initiative was created to address the specific needs of these areas. But with insufficient funds and an increase in the number of cities eligible for these grants, even that program has fallen short of the mark.

□ 2215

The issue of how best to allocate homeland security dollars has been debated within the administration, within the Department of Homeland Security, and in at least five committees in this Congress, and many of us have engaged in these debates and believe the time has come for action. And I certainly respect the chairman's hard work on this issue, and we were in the committee together when he said that he is demanding from the Department of Homeland Security some specific guidelines as to this formula. By increasing funding for the Urban Area Security Initiative, this amendment is consistent with the President's budget proposal.

Quite frankly, it amazes me that we have gone this long allocating such a large portion of homeland security funds based on everything but the threat of a terrorist attack to a particular area or region. It is no secret that my home State of New York, where the threat is well established and widely acknowledged, receives less money per person than 49 other States. Frankly this defies logic. So I want to be very clear. None of us are proposing to eliminate funds for any region or area of the country. What we are proposing to do is to ensure that those cities that are facing the greatest threat from terrorist attack have access to the resources they need to face these threats head on. We just simply cannot continue to wait, wait for the Department of Homeland Security to come up with a better formula, wait for another committee to come to a conclusion. We cannot wait. We cannot ignore the very real and urgent threats that loom over so many of our high risk areas.

I will not repeat, Mr. Chairman, the numbers that the gentleman from New York (Mr. SWEENEY) and the gentleman from New York (Mr. KING) presented to this group. We know the numbers. We have met with the New York City Police Department. We understand what they are spending each day, each month, each year to protect this city and to protect the surrounding environment. This is so very important. It is important to all of us. It is important to us as New Yorkers, it is important to us as Americans. And I just

want to urge my colleagues to do the right thing, to support this amendment, and I appreciate the chairman's willingness to cooperate and to respond to us.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair announces to the Members that if Members rise simultaneously, the Chair recognize, as first priority, members of the committee.

For what purpose does the gentleman from Tennessee (Mr. WAMP) rise?

Mr. WAMP. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. WAMP. Mr. Chairman, I rise, as a member of the subcommittee, to speak in opposition to the amendment but with the highest respect for the unity from the New York and New Jersey delegations. It certainly transcends party, and I love New York. The older I get, the more I love it. And I especially love the way that they all pulled together after September 11 and continue to stick together on important national priorities such as this.

But I just want to make a couple of points. We had well over 50 hearings at the subcommittee, we have had in the last year and 5 months. Many of these are highly classified or even at the top secret level. And while I am not going to talk about anything that is talked about, we have to assume, we have to assume, that terrorists plotting a future attack may very well commit that attack on several fronts simultaneously and certainly not just in an urban setting.

For instance, in the foothills of east Tennessee after September 11 people felt relatively safe and secure even within days of the attack because they did not live in a highly populated area. We must assume that the terrorists in the future will want every American, regardless of where they live, to be afraid and to live in fear because that is their weapon is fear.

These grants under the formula are heavily weighted towards population. But they are not heavily weighted towards infrastructure targets. And I will give another example. On the west side of the State I live in, Tennessee, Memphis is there, and Memphis qualifies for some of these grants under high density. But I have got to tell the Members that the nuclear weapons are in my district in east Tennessee, but the most populated area is over there but not around the nuclear weapons plant. Frankly, we do not want the nuclear weapons plant to be in the heart of all the people, but it is a target, and so are our nuclear plants and our dams and the infrastructure that is there.

So I think we have to have a balanced approach. I really love it that my colleagues are willing to fight for their people. I really believe that they are doing the right thing. But I think we had better be careful as a subcommittee that we do not get carried away or even send the signal inadvertently to the terrorists that most of the money is going to go into the big cities and the highly populated areas. They need to know that we are covering all of our bases and all of our infrastructure and that we expect them to hit us on multiple fronts simultaneously in the future and that we are spending the money in a comprehensive way around the country and that we are not putting almost all of our eggs in a few baskets, and that their method before, which was primarily to use airplanes as weapons of mass destruction, is probably not the kind of attack they are going to launch in the future. It will be different, and it may be with biological or chemical agents. And I have got to tell the Members those first responders in those communities had better be ready as well. And that is what we are trying to do is make sure that the whole country is covered.

I know the chairman and I are from a more rural area, but please do not believe for a second that we do not want to make sure that all of the highly populated areas are covered, not just satisfactorily but well. And we are going to work with them on this and I think we have done a reasonably good job. And I know they are coming down here tonight to defend the people that they love and we love. But this whole country cares about New York City and New Jersey and all the people that perished, and we are all going to stand together to make sure that we are covered.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. WAMP. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I appreciate the gentleman's statement very much, and he is exactly correct. We love New York City. I cannot wait to go there for the convention in a few weeks.

But let me just say this: In the High Density Urban Area Grant Program out of which New York will receive a good sum of money, we are almost at the President's recommended level. We are at $1.175 billion, which is almost twice what it is now. We have almost doubled the money in that account.

In addition to that, the State of New York—and New York City will get roughly half of the money that goes to New York State. That kitty is $750 million. It only leaves $500 million for everybody else. Give me a break.

Mr. FRELINGHUYSEN. Mr. Chairman, I move to strike the requisite number of words.

First and foremost, New Jerseyans would like to thank the gentleman from Kentucky (Chairman ROGERS) for his tireless work crafting this bill. In an environment of overwhelming national security needs, he has achieved, I think, a very fair and balanced bill which will give the agencies now under the purview of the Department of Homeland Security the resources they need to keep our communities and Nation safer.

However, Mr. Chairman, this evening I rise in support of the gentleman from New York's (Mr. SWEENEY) amendment to this bill. New Yorkers and New Jerseyans are joined at the hip in this regard. My constituents in New Jersey and those in the New York Metropolitan Area know better than most how vulnerable an open and a free society can be. We have put a very human face on the homeland security issue. Seven hundred New Jerseyans went into Lower Manhattan on that morning never to return home, and thousands of New Yorkers did as well.

The Sweeney amendment seeks to increase the High Density Urban Area Security Initiative from the $1 billion to $1.5 billion. By seeking increased funding of the Urban Area Security Initiative, we recognize, with the passage of this amendment, the unique threat faced by our most densely populated areas with significant critical infrastructure, with national significance.

Each year 212 million vehicles traverse our tunnels, bridges, and ferries. Our three regional airports are some of the busiest in the country. Nearly 60 percent of all containerized cargo handled by North Atlantic ports goes through the Port of New York and New Jersey, and a vast majority of cargo flows through our docks. Our rail tunnels under the Hudson serve our entire East Coast in the Nation, but particularly East Coast rail system, passenger and freight. They are urban security risks that are a critical mass and deserve extra protections. Our area both in New York and New Jersey has some of the largest oil refineries in the Nation and provides for oil for the East Coast and other parts of the country.

This amendment correctly recognizes that we must refocus our efforts on protecting our most vulnerable and likely targets, which are largely urban. The first responder teams who have faced the enormous task of securing these large population centers and their surrounding areas need our support and these extra resources this amendment can provide.

Mr. SABO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. Mr. Chairman, I join everyone else in congratulating the New York/New Jersey delegation on their enthusiasm and their vigor. This Congress has responded. It has promised New York in a rather dramatic fashion post-9/11. But let us be clear about what we are doing today. We are very substantially reducing the funding for local responders, fire, police, emergency personnel all over the country. We are doing that before this amendment and dramatically more if this amendment is adopted. The basic formula grant in 2004 was $1.690 billion. Under this bill it is $1.250 billion, a drop of $440 million. This amendment would reduce it by another $446 million. The Urban Area Security Initiative, $721 million last year, $1 billion, under this bill, already an increase of

$279 million plus another $446 million under this amendment for more than a doubling of this program, while the other program would be virtually cut in half, that deals with the balance of the country, most of the rural and moderate size communities in this country and many fairly large size communities.

Another thing that sort of strikes me in all this discussion, I hear about the initial grants in proportion of grantees that happened later on and that some terrible thing happened because the numbers increased. I recall that first grant by the agency. I asked them a question: What were the criteria they used to distribute these funds? I waited and waited and waited for an answer. I talked to a high up official, and they said, We will see you in a week, and I would wait another month or two. I am still waiting. We finally did have a briefing before the second round of grants were awarded, at which point we had some criteria. But this is no great science. I wish we had this total understanding where threats were in this country. Clearly large urban areas like New York, like the District of Columbia, are threats. But so are many other parts of this country. And in many parts of the country, the need for technical assistance, for training, for specialized equipment, it is probably more substantial than it is even in some of our larger urbanized areas. And these formula funds do not flow out willy-nilly sort of around the country. We have to develop a State plan and a regional plan to get these funds.

□ 2230

So it is not a dab here and a dab there. But States have to work at it; local communities have to work at it. They have to have regional approaches. They have to use these funds where they make sense to deal and respond to real projected threats.

So, Mr. Chairman, I wish we had all the money we needed. The fact is the base bill in total has some reduction in funding for local responders. The basic formula grant would be further reduced in a significant fashion by this amendment, while the urban security initiative, which is already receiving an increase, would have a substantial increase.

I do not think that is fair. I think we need to be fair to the totality of our country. In my judgment, the base bill, if anything, is skewed too much in changing money away from the basic formula grant. So I would urge defeat of this amendment.

Mr. WALSH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thank the chairman of the subcommittee for the hard work and the challenges that he has. This is truly a difficult, difficult bill. The great problem that he has is his resources are finite. He has to choose wisely. But I think that is what this debate is about.

Our subcommittee had a lot to do with shepherding the original $20 billion to New York City to rebuild Lower Manhattan after this attack, and I know that the people of New York are deeply grateful to the Congress and to the President for keeping the commitments that were made to them. That city is thriving again. It is doing well.

I live in Syracuse, New York. The chairman of the full committee mentioned that there are a lot of New Yorkers here. My community will not benefit from this. I live 300 miles from New York City. In fact, I suspect that someone from my community could argue that by taking these funds away from Syracuse, I am not being fair to my home community. But as someone pointed out earlier, it is not really about fairness; it is about taking finite resources and applying them where they will have the most effect.

I believe, based on the activities, and I am not an expert on terrorism by any stretch, but I believe that when they attacked the United States and they attacked New York and Washington, D.C., they thought they could defeat us. I really believe that. They thought we would crumble. We did not. In fact, we came back stronger and hit them harder than they ever imagined it would be.

They will never defeat us. What they will try to do is get symbolic victories. Symbolism is important to them. They have little else. But they will strike, I believe, at centers of media, of financial, of American power, of American culture; and that is where we should place our bet.

Certainly, we need to support the communities around the country, and we do. I remind my colleagues, we provide three-quarters of a billion dollars to fire agencies all across the country in a competitive grant process to help them to prepare not only for homeland security but for the event of disaster and emergency within those communities.

These funds are antiterrorism funds. We need to put them where they will have the most effect. The chairman mentioned that the people who attacked New York City in 1993 trained just 30 miles from Three Mile Island. But when they were trained, when they thought they were ready, they attacked New York City, not the nuclear plant. That is not to say they would not; but they have limited resources, and we have to fight them on the grounds where they need to be fought.

Lastly, New York City, as I understand the figures that I have from the mayor of New York, provided by my colleague, the gentleman from New York (Mr. SWEENEY), who brought this amendment, and I thank him for doing that, he has provided great leadership on this, and he also is an upstate New Yorker. In the old days, New York was upstate versus downstate. That is not the case now. One thing this disaster brought to us was unity in our State. The numbers we have say that New York City received $375 million in 2004 in formula funds and $90 million in high-risk funds. That is not enough.

I urge strong support for this amendment.

Mr. LATHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just rise in strong opposition to this amendment. While everyone fights for money, and that is good, that is natural, it is what we would expect, the fact of the matter is these dollars have to be distributed across this country.

The gentleman talked about threat. Well, the way the dollars are given out through the committee, threat is the third highest priority. It is population, it is presence of vulnerability of critical infrastructure and threat; three times more emphasis put on population than on threat.

When you talk about defining threat, you tell me about what destroying our food supply in this country would mean: agri-terrorism. You talk about destroying the infrastructure that we have in this country outside of the major urban areas. When we start talking about the places of high threat, I think there is no way to calculate the number of places that can be destroyed.

We cannot write off the rest of the country. This bill already recognizes a balance between the urban areas and the rural areas. This bill gives the urban areas over $1.2 billion, directed to urban areas, $280 million more than last year; and now they want to take more away from everybody else in this country.

Every State has a plan in place. We have a lot of community entities, counties, in the State of Iowa that are trying to comply with those plans today; and they need the resources as much as any other place does.

If we are just talking about who has got the most people, that is one thing. When we talk about analyzing how people can respond to a threat throughout this country, that is another thing. Everybody in this House has approximately the same number of people, and we all love them as much as the next guy does. I want to protect my people as much as anyone in New York or New Jersey, but I think it is wrong to have all of these dollars go to one area out of my people's protection. It is simply wrong.

The gentleman talked earlier about we have got to do what the President said. He said we should have this many more dollars as far as urban areas. Well, let us just follow that.

If we follow the President's request, we would have no money in this bill for rail security; we would have cut firefighter grants by $245 million; we would have doubled airline ticket taxes; there would be $43 million less for air cargo security. You might be interested, if you are from New York, we would have no money for metropolitan response teams, for which the committee gave $50 million. There would be

$50 million less for radiological detection devices at our seaports and $29 million less for baggage screening at our airports. In fact, if we followed the President's request, there would be $500 million less in this bill to go to your protection.

I think it is a balanced bill as it is; and like the chairman said, is there ever enough anywhere? Well, maybe not. Will one more dollar do it in one place rather than another? I do not know. No one knows that. But the fact of the matter is, there are real threats in rural America; there are real threats in urban America.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. LATHAM. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentleman for his statement.

Now, there is $900 million in the high-threat, high-density urban area grant program. There is also $100 million in the rail and transit security. That would go to the big cities, would it not?

Mr. LATHAM. Yes, it would.

Mr. ROGERS of Kentucky. And is there not $125 million for port security? The last time I checked the ports were in large cities, were they not?

Mr. LATHAM. The gentleman is correct.

Mr. ROGERS of Kentucky. Then we restored the $50 million for the metropolitan medical response system. Metropolitan means large city, does it not?

Mr. LATHAM. That is correct.

Mr. ROGERS of Kentucky. So when you add all of those moneys together, this bill is chock full of money for the big cities; is that not correct?

Mr. LATHAM. Mr. Chairman, reclaiming my time, obviously the chairman is correct.

The fact of the matter is, I honestly believe there is not enough money for the formula grants. As we are pursuing this amendment, I have another amendment where we will transfer $275 million back into the formula grants, because I think it is so important that the entire country be protected, and not just certain areas who cannot define threat and are only basing their premise on how many people live in one area.

Mr. KIRK. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I rise not as a New Yorker, but as a Midwesterner and as someone with 16 years' experience in the intelligence community; and I rise to reluctantly support this amendment because it stands for the principle that our homeland defense dollars should be allocated against the threat and not allocated by State.

Our intelligence against al Qaeda should guide where we deploy these defenses. In point of fact, many States have never been mentioned by al Qaeda or any other major terrorist organizations, but other targets are always mentioned: New York City, the Seattle Space Needle, the Sears Tower, nuclear reactors in the United States, the largest airports, and, of course, the White House, the Capitol and the Pentagon.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. KIRK. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, do they mention Columbus, Ohio?

Mr. KIRK. Reclaiming my time, they did not, but that was not the point of the attack. The point of the attack, as I will go into, is always returning to the same targets, as it has in Kenya, as it has in Sudan, as it has in Tanzania.

Once the U.S. Marines and Army Special Forces overran the al Qaeda offices in Afghanistan at Tarnak Farms, we got a clear picture of what the terrorists target. We all know that Osama bin Laden struck the World Trade Center in 1993 and then struck it again in 2001.

As one political party holds its convention in New York City in 2004, we know it is a target again. We cannot let homeland defense dollars be spent where there is no perceivable threat. We do not have enough funding to fortify the whole country; therefore we must be guided by the intelligence.

If the intelligence showed that al Qaeda consistently targets Wyoming or Mississippi, then that is where the funding should be directed. But it does not show that. It shows that the targets are places consistently mentioned by Osama bin Laden and his lieutenants which are known to him in Afghanistan and Pakistan. These targets, over and over again, are New York, Washington, Chicago, Seattle, and other key sites regularly mentioned by al Qaeda.

If we use the funding in this bill to fortify the wrong parts of this Nation, then we will be weak where we should have been strong. If we fortify the right places of our country, then we will blunt their attack, and we will protect the American people.

I believe the intelligence should guide this funding, and I urge support of the amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, if the gentleman will yield further, I think we are all in agreement on the idea that the moneys eventually should go based on threat and risk assessment. We are all headed in that direction. I am trying to push the Department, certainly by the end of this year, to establish minimum essential requirements for every community so that everyone, based on a graduated size of the community, would have requirements to be prepared, based on the threat that faces that particular community.

That is a really complex undertaking. But it is being undertaken. Hopefully, the 2005 moneys we are appropriating will be spent based on that plan. It is not quite in place yet. That way, we would all be satisfied, rural, big city, medium-sized city, what have you. If you are a city of 5,000 people, there is not much preparation perhaps you need, unless you are near a nuclear power plant or a big dam close by or what have you, which can be modified in that fashion. If you are a large city, a New York, a Washington, a Seattle, obviously you are going to get lots of money. But we are all headed toward the same direction.

I do not want us to get sidetracked, as we seem to be doing with this debate, pitting region against region. That is not right. We are all one country.

Mr. KIRK. Reclaiming my time, I worry that that process will be too slow, and that Osama bin Laden does not see this country as big State versus small State; Osama bin Laden does not see this country as urban versus rural. He knows of a few big targets. From his cave looking at the TV pictures, he has identified those targets; and we need to let our funding be guided to defending those targets so we can blunt the attack.

Mr. ROGERS of Kentucky. If the gentleman will yield further, there are other threats besides Osama bin Laden. As I earlier said, and perhaps the gentleman was not here at the time, there are all sorts of groups out there that have already caused harm, in such places as The Dalles, Oregon, population 12,000.

□ 2245

Timothy McVeigh, who bought his materials in Harrington, Kansas, population 2,500. So there are all sorts of threats out there in cities of all sizes.

Mrs. MALONEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Sweeney amendment and in appreciation to the New York and New Jersey delegations and many from Chicago and other areas that are supporting this important amendment.

Mayor Bloomberg is watching this debate, and his office just sent me a note and asked me to clarify on the floor today that New York City got $90 million last year out of the $3 billion given out for homeland security to State and local governments; $35 million in high-threat money, and $53 million from the State grant program, bringing the total to $90 million out of $3 billion for New York City. His office asked me to note to this body that last year New York City spent well over $1 billion on homeland security, and I really am urging my colleagues to do the right thing for the security of our Nation and support the Sweeney amendment.

It has been 2½ years since 9/11, and we have heard numerous reports, intelligence reports, as my colleague, the gentleman from Illinois (Mr. KIRK) mentioned, and I support his comments completely; and numerous warnings about terrorist plans for more strikes on America. Alert after alert, Code Orange after Code Orange, we hear that the terrorists have their sights on

high-impact targets. In other words, the terrorists continue to want to strike centers of power and population, just as they did on 9/11. Their goal is to kill as many as possible, send as big a message as possible, and disrupt American institutions as much as possible.

Mr. Chairman, despite that knowledge, our homeland security funding since 9/11 has been, in large part, misguided. We continue to push limited resources through a bad formula that sends a disproportionate amount of money to prairies and pastures rather than population centers. We cannot wait out the game being played with that formula, because the terrorists do not plan on waiting for us to be ready.

Mr. Chairman, the Sweeney amendment will bring one measure of immediate assistance to the cities and communities that are squarely in the terrorists' bull's eye. All we are asking is that we do what President Bush wants. After 2 years of misguided homeland security budgets, the President finally called for a doubling of the Urban Area Security Initiative funds in his budget proposal. Sending more assistance to the communities most at risk is the best way to get the money where the threat is, right now.

New York is terrorist target number 1. Everyone says that. And I repeat, we have spent over $1 billion out of our own pocket for security, but we have gotten a mere fraction of that back from the Federal Government. There is no reason that New Yorkers should have to watch New York City close down over six firehouses. We have fewer police and fire today than we had on 9/11. The radios that did not work on 9/11 still do not work. The HAZMAT suits destroyed on 9/11 have not been replaced. Yet, there are press reports across this country about many communities getting money, and they even say to the press we do not know what to do with it. We should not be sending more gas masks to certain areas than there are even police officers, sending more homeland assistance to low-threat communities than they know what to do with while our high-threat communities struggle to keep their heads above water. It is not fair, it is not smart, and it certainly is not secure.

At the very least, this amendment sends the message to the American people that we do, in fact, understand the need to base assistance on where the threat is and, more importantly, it finally sends more assistance to the communities that desperately need it. The Sweeney amendment does exactly what the President's budget requested.

So I request my colleagues to join us in supporting this.

Mr. ROGERS of Kentucky. Mr. Chairman, will the gentlewoman yield?

Mrs. MALONEY. I yield to the gentleman from Kentucky.

Mr. ROGERS of Kentucky. Mr. Chairman, briefly, since the gentlewoman says the Mayor is listening and says he only got $90 million in 2003, the figures that I have are different.

Mrs. MALONEY. In 2004.

Mr. ROGERS of Kentucky. The city in 2003 received $256 plus million, and I will get back with the gentlewoman on 2004 in a minute.

Mrs. MALONEY. Mr. Chairman, reclaiming my time, a point of clarification. The numbers that I cited came from the Mayor of the City of New York. His office literally called up, they are watching the debate, and said, please clarify, New York City got $90 million out of the $3 billion.

Mrs. EMERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to my good friend, the gentleman from New York's (Mr. SWEENEY) amendment. This is not easy to do, because the tragedy that New Yorkers and so many from the surrounding area felt on 9/11 was our Nation's tragedy and touched every person in every community in America.

But our Nation's urban areas are not the only areas at risk in the United States today. We cannot disregard the many what-ifs facing first responders and others working to secure our rural areas.

What if a catastrophe occurs on a barge carrying fertilizers or other dangerous chemicals through the Upper Mississippi River or its many tributaries? What if a truck carrying a payload of toxic materials is hijacked on the thousands of miles of our Nation's rural highways? What if terrorists seek to operate training grounds with the purpose of planning terrorist attacks in our rural areas?

Clearly, there is an obvious need to equip our Nation's cities with adequate resources to prevent and respond to emergency situations, but it is also not responsible to suggest that urban areas are the sole targets of those individuals who wish to do us harm.

Mr. Chairman, homeland security efforts in our urban areas are funded more than adequately in the underlying legislation, and I, for one, cannot in good conscience tell my neighbors in Cape Girardeau, Missouri or my constituents in Rolla or West Plains, or even those who live near prairies and pastures, that protection of their lives is any less important than those who live in New York City, Los Angeles, or Chicago.

I urge my colleagues to oppose the Sweeney amendment.

Mr. FOSSELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment and, as has been stated repeatedly here and warrants repetition, is why this is the right thing, what we know and why this is right.

What we know is clear and obvious. What we know is that a terrorist seeks an area to destroy not just innocent people, but the morale of an entire Nation. And while it may be a couple of years ago, September 11 is alive and well here in this country.

In Staten Island and Brooklyn alone, almost 300 innocent people lost their life, lost their life. The terrorists knew that. They still do. It was not unique. In 1989 they attempted to blow up the Trade Center. They have conspired to blow up the Holland Tunnel, the Lincoln Tunnel, the George Washington Bridge, and the United Nations as well. It is still real.

What is right is to send the money to where it is needed. If after September 11 we united as we did as a Nation, and we are grateful to the Congress and the President for coming through for New York City and New York State, if after September 11 we decided to go after the terrorists where they were, where the threat was, and Secretary Rumsfeld deployed the 101st Airborne to Switzerland, we would have laughed him out of Washington. Or, if he said, let us put an aircraft carrier in the Great Salt Lake, because we are going to protect the homeland; one home, not 50, one home, we would have laughed him out. If he said, let us get the Air Force deployed and launch a strike against Antarctica, we would have laughed him out.

So this notion that we have to send money everywhere for the sake of sending money everywhere really compromises the second component of what this committee is all about: our homeland, all of us together, and security. Let us not send money somewhere so we can say we cut the check.

The point is that it is not just New York City, it is not just the city residents, and it is not just the residents of New Jersey. It is the residents of Chicago, it is the residents of Los Angeles, it is the residents of Houston, Texas, and it is the millions of people who go to those cities: your families, our friends, our fellow Americans and, yes, people from around the world who come to these cities, New York, for example, who expect a level of security. We want them to visit for a few days and go home peacefully, spending money in the meantime, but let them come and enjoy it.

The fact is clear, I say to my colleagues. The right thing to do is to recognize that the City of New York, on a daily basis, incurs millions of dollars of expense to protect not just the residents of New York City, the people who work there every day and the millions of people who come. We need to reengineer this formula. We need to reengineer and do what is right, not just for the urban areas, but send the money where it is needed the most where the terrorists are looking towards, and they are looking towards New York again. Let us not look back in a year or two as my colleague, the gentleman from New York (Mr. KING) said earlier and the gentleman from New York (Mr. SWEENEY) and others have said so eloquently, let us not look back in a few years and say, well, we should have done something better. We have the opportunity tonight to do just that. I urge my colleagues to support the amendment.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this debate seems to be occurring almost in a vacuum, because it seems to ignore the fact that we are at war. There was a very serious war launched upon us by the Jihadists, the Islamists, whenever you want to call them. They want to kill as many Americans as possible. Where you get the biggest bang for the buck is in an urban area, because you can kill a lot of people in a small area. If a plane crashes on a farm, maybe you kill a person or two, but not too many more.

We are not responding properly. We are not taking it seriously enough. We ought to be spending billions and billions of dollars to properly protect all of the threatened areas of this country, all of our cities, all of our nuclear power plants, all of our chemical plants. We ought to do a threat assessment on the whole country. We ought to repeal some of the tax cuts and spend the money to defend ourselves and take it as seriously as we did in 1942, but we are not doing that.

And since we are not doing that, we have to prioritize the money that we do have, the grossly inadequate amounts of money; maybe more than last year, but the grossly inadequate amounts of money to protect ourselves against our enemies. We have to prioritize them where the real threats are. There should not be a grant on the basis of population.

In 1942, when Admiral Nimitz had to decide where to send the fleet, he did not look at where the population was on the West Coast or in Midway or in Hawaii; he said, where is the Japanese fleet likely to attack, and that is where you spend the money and send the aircraft carriers.

We are probably going to be attacked again. Thousands of people may die, and our job is with the money that is made available to spend it in the way most likely to minimize the casualties in this country.

That is what this amendment seeks to do. Is it fair? No, it is not fair. It would be fair if we spent a few billion dollars more to defend our people. That would be more fair.

□ 2300

But we do not have that money. It is a different debate. We should spend the money based on the threat, and the threat we know, as the gentleman from Illinois said before, we know where the enemy, where Osama bin Laden and his friends and confederates, we know what they are looking at. They are looking at our major urban areas. They are looking at the Space Needle in Seattle, the Sears Tower in Chicago and so forth.

Yes, the bill that the committee propounded in some respects is better than the inadequate proposal that the President made, and I commend the committee for it; but this amendment makes it better yet.

The fact of the matter is, we passed a tax bill earlier today that gives great breaks for tobacco farmers. It has a tobacco buyout in it. I did not hear anybody from New York saying, my God, we should not do that. Nobody in New York benefits. Nobody in New York benefits from the wheat subsidy. We do not complain about that because we do not have any wheat farmers in New York. We should not benefit from the wheat subsidy.

The money that is appropriated by this Congress ought to go where the need is for the purpose for which it is appropriated. The money that is appropriated to defend us in a war ought to go where it is going to be maximally efficient in its use in protecting Americans from enemy attack. That is what this amendment does. That is why it ought to be adopted. Everything else is irrelevant.

Mr. FERGUSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I first want to compliment the chairman of the subcommittee for the bill he has put together. This is a very difficult and challenging process. This bill is perhaps, if not the most important, certainly one of the most important pieces of legislation that we will consider all year for the safety and security of our Nation and the people of our communities and our families. The chairman has worked extremely hard to do that.

I do rise in support of the Sweeney amendment because I think this bill can be better. Mr. Chairman, we face a threat from a cunning enemy bent on interrupting and destroying our very way of life in this country.

The past has shown, and intelligence continues to suggest, that terrorists have targeted our Nation's highly populated areas, our seats of power, and our symbols of military and economic might. Now, I represent a district in New Jersey. I do not represent New York, but I represent thousands and thousands of New Jersey citizens who work and play and live in some way or another in New York. They travel into New York City. I lost 81 constituents the day of 9/11 in the World Trade Center.

The fact is that in a more densely populated area you are going to be a bigger target for those who are seeking to do us harm. Now, the current funding proportions set in place to allocate first responder grant funding is inadequate. It places our Nation and our vulnerable urban areas under greater risk. It is vitally important that we address our Nation's homeland security requirements where they are needed most, highly populated and symbolically significant areas of our country, symbolically significant areas of our country.

Mr. SWEENEY. Mr. Chairman, will the gentleman yield?

Mr. FERGUSON. I yield to the gentleman from New York.

Mr. SWEENEY. Mr. Chairman, the gentleman reminded me of two important points that I do not think have been stressed here, and I very briefly want to state them.

One, it has been a misnomer by a number of Members who have come to the floor today pointing out that there is critical infrastructure throughout this Nation that needs to have security dollars addressed and directed towards it. This fund, the UASI fund, the high-threat fund includes all critical infrastructure.

Point number two is that this is not about any region. This is not about New York. This is about the whole Nation. As my friend, the gentleman from New York (Mr. FOSSELLA), said earlier, this is about one family, not 50.

Mr. FERGUSON. Mr. Chairman, I thank my friend from New York, and I appreciate his work on the amendment, and I obviously support the amendment.

Already, many of our States and districts, including mine in New Jersey, have received millions of dollars in important first responder grants. These grants are important for keeping America and our communities safe and strong and free. The distinct and immediate need for separate funds to be dedicated to high-threat urban areas was first recognized during the appropriations process in 2002 with the establishment of the Urban Area Security Initiative.

It is time now that we further our commitment to addressing the needs of our high-risk areas by transferring $450 million to the Urban Area Security Initiative from the formula base grant funding pool. This request, as has been said, matches President Bush's request for the UASI and represents a pragmatic approach to funding homeland security needs.

Mr. Chairman, the terrorist attacks on September 11 left a terrible and lasting mark not only in my district in New Jersey but on our entire Nation. We have to heed the lessons of that day to do our best to secure our Nation's most vulnerable and highly populated areas. Common sense dictates that we must direct money where the threat is felt the most.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. ANDREWS. Mr. Chairman, I rise in strong support of the amendment put forward by my friend, the gentleman from New York (Mr. SWEENEY). For the record, although I am proud to be a New Jerseyan, I would point out my district is about 80 miles away from New York City. It is really not part of the New York City metropolitan region; but I do not think that is the issue here, because this amendment is not about the New York City metropolitan region or Chicago or Seattle or Los Angeles. It is about the national interest.

It is indisputably true that there is not a village or a hamlet or a town in America that is immune from a terrorist attack. It is indisputably true that the terrorists may choose to strike a rather small, obscure place simply to prove a point, that they can, and to spread the fear that is there.

To address that problem, it is important to have some resources for every part of the country; and the chairman has put together a bill which very wisely does that. And I commend him for it, and I support him for it. But we cannot really legislate based on ''what if.'' We have to legislate based on ''what is.'' And the public record of the intelligence reports, not disclosing anything that is not on that public record, clearly indicates, as the gentleman from Illinois (Mr. KIRK) said, a pattern by the Islamic racialists to focus their efforts on targets that would be known by a person who is on the street in Beirut because they want to make a point that they are striking the infidels. So they strike a symbol so that when it appears on international television, their horror and twisted victory can be understood by the audience to which they are playing.

It is not a coincidence that on September 11 the symbols that were struck and the symbols that were targeted would be symbols that would be known throughout the so-called Arab street. That was the purpose.

The public record of intelligence clearly can lead us to the conclusion that high-visibility, well-perceived targets are the most likely places for this kind of terror to strike. It is the national interest to prioritize the spending of money in these ways, not a parochial interest for people from large cities or from particular large cities.

Very often we have supplemental appropriations bills come to the floor of this House, and they deal with wild fires in California, or they deal with floods in the rural Midwest, or they deal with natural catastrophes that happen throughout the country. It is our tradition and it is to our honor that we stand up and nearly to a man or to a woman vote to support that aid because our neighbors need it, and they need it more than we do.

I have rarely in my time here heard a Member say that they will not support flood relief aid or hurricane relief aid for part of the country because that part of the country is getting too much. Instead, there is an acknowledgment that when one of our areas has a time of greater need, each of us rises to the occasion and vindicates the national interest in that way.

The bill that is before us does not ignore the needs of rural America. It does not ignore the needs of the less populated areas of the country. I do believe that the decision the bill makes disproportionately funds those needs, however. And I do think the right allocation is to reflect the best judgment of the intelligence community and to adopt the amendment that the gentleman from New York (Mr. SWEENEY) has put forth.

The fundamental answer, I agree with the gentleman from New York (Mr. NADLER), is that we have not given enough resources for this problem overall. But we can not legislate based on what if. We have to legislate based on what is. And what is is the credible judgment of the intelligence community that high-population, high-target areas are the most vulnerable and most likely places for us to be assaulted. We should adopt the Sweeney amendment and reflect that good judgement.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reside in the State of California. We are a bunch of pigs when it comes to money. California and New York City, a bunch of pigs when it comes to money.

Why? Well, let me give you a couple of examples. California, San Diego, where I live, population, one in eight Americans lives in the State of California. We have a nuclear facility just outside San Diego. We have got one of the most expansive borders to cover. We have aircraft carriers in the port along with nuclear ships in San Diego.

□ 2310

We have a multitude of military bases. We have one of the largest biotech facilities in which we use radioactive materials, even though it is not very strong, but we have got to bury it. It could be used for a dirty bomb, and I personally feel the biggest threat we have is New York City and Boston before November. Al Qaeda tends to do what they have been successful at, and when Spain capitulated I think that put all of us at more of a risk.

Mr. Chairman, sometimes some of the delegation in New York have been so liberal, so willing to cut defense, so willing to cut intelligence, so willing to bash a President that provided billions of dollars in a rebuilding of New York. The same President that is going to kill or capture the very people that they are fighting to get extra money for before they kill them and their children. I think that is wrong.

Part of me wants to take every dime away that we have given to New York, but that would be wrong and I will not do that. I will not even try to do that because it would be wrong because my colleagues have got millions of people there that depend on it.

But my colleagues know that recently we had an Ohio shopping center that was going to be bombed. We had a facility in Los Angeles. Would it be the San Francisco Golden Gate that was threatened?

The reason I got up to speak is that there is not enough money in the whole world. The advantage of a terrorist is that they can pick an infinite number of targets, whether it is in St. Louis, whether it is in the snake pit in Oklahoma during a ball game or whatever.

The balance that we should do is what the committee has chosen to do and look to provide local police and first responders the best that they can do, to react regardless of where the terrorists do hit us.

My biggest threat and biggest fear, can my colleagues imagine what smallpox would do in two cities? In 2 weeks we would lose millions of people, and can we respond to that? That is why I think that this important and balanced bill needs to point out not gobs of money for one. I think New York should get a little, probably more than other people because it is a threat. I think Boston, with the upcoming Democratic Convention, should be protected, but I think it should be balanced out around because no one knows what those threats are.

If I was al Qaeda, I would guarantee my colleagues I would find a target that we are not protecting. There is no way we can protect them all, and I think the best thing we can do is provide a little more for those areas that are threatened, not a lot like some of us are asking for, but to spread it out so with much as we can we can protect those sites because I guarantee my colleagues, it may be just a shopping senter in Oshkosh or somewhere else.

Mr. ENGEL. Mr. Chairman, I move to strike the requisite number of words.

All one has to do is look at today's newspapers, look at what the 9/11 Commission has found, and we can clearly see that al Qaeda is looking to strike where they can make the worst hit and that is in the urban areas. I do not mean to denigrate the good work that has been done on this bill. There are a lot of people who have done a lot of good work, and it is very, very hard, and the point has been made that we are not funding homeland security to the extent that we should.

But the American people know the difference between what is necessary and where the threat is, and the difference between that and pork, and quite frankly, we should not be using this bill to spread the wealth around, this pork, so each of us can go back to our districts and say we produced a little bit for our constituents. We should put the money where the threat is.

I really have to vehemently disagree with the idea that States with virtually no threat of a terrorist attack are getting as much as $20 more per capita than New York gets. That is illogical, it is unfair and it makes no sense whatsoever.

I rise in strong support of this amendment. This allocates more money for the Urban Security Initiative which would send more preparedness dollars to high threat areas. It makes sense. Doing so would better prepare first responders where terrorists are most likely to attack.

Our colleagues have mentioned that we know that the terrorists want the biggest bang. We know that New York City and Washington have already been hit. One does not have to be a rocket

scientist to understand that this is where the biggest threat is.

New York obviously has taken the brunt of terrorist attacks, yet we get shortchanged on preparedness dollars while States that have little or no risk are raking in millions. Again, that does not seem fair, and it does not seem right.

Hundreds of New York's fire fighters and police officers died responding to the World Trade Center attacks. The September 11 Commission has highlighted a number of areas where New York's first responders needed more resources to respond to a large scale attack that occurred. We can rectify the problems that our heroic fire fighters and police experienced on September 11 if we have the proper resources. Currently, our first responders are underfunded and overworked, as New York continues to remain in a heightened state.

New York remains a prime target, and scarce resources are being diverted to areas that are not really at risk of terrorist attack. We owe it to our firemen and police in New York who will be tasked with responding to a future attack, we owe it to them and the residents of New York to do all we can to prevent and prepare if another 9/11 should happen again.

Now, I understand that all of our colleagues must return home and talk to their constituents about homeland security. I certainly understand that every American is just a little on edge. I understand because when I go home and talk to my constituents they fear that although many terrorist plots have been thwarted over the years, one may eventually be successful, but I want to once again repeat, we are not talking about hypothetical threats in New York. The threat is very real.

So I am asking my colleagues to step back. Please do not make this about funneling money into your State. As we all mentioned before, we are all Americans but not all of us have had our local economies destroyed, our cities bombed and our neighbors murdered. I am asking my colleagues to put the money where it is needed most but also where it would do the most good.

We are an institution representing the entire Nation. We are in charge of making tough decisions about how best to use our scarce Federal tax dollars. Putting more money into the high threat account should not be one of the tough decisions. It is the logical one. It is the right one, and I want to repeat, it makes no sense that States with virtually no threat of a terrorist attack are getting as much as $20 per person more than New York gets.

So I strongly support the Sweeney amendment. Again, it is fair, it is right. We are one Nation. We need to put the money where the threat is. Please support the amendment.

Mr. COX. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this has been an outstanding debate. It is a vital question for our country to decide.

As chairman of the Select Committee on Homeland Security, I cannot help but notice that the September 11 Commission in its findings, issued as part of the final round of its public hearings, has just released details from interviews with 9/11 mastermind Khalid Sheikh Mohammed and Ramzi bin al-Shibh, a key coordinator of the 9/11 plot, indicating that these al Qaeda terrorists had, in addition to the plans that they actually executed, a more elaborate plot to use 10 airplanes to strike large cities on both American coasts, to hit the tallest buildings in California and Washington State.

I also know, as does my colleague the gentleman from Texas (Mr. TURNER), ranking member on the Select Committee on Homeland Security, as a result of our routine briefings from the Terrorist Threat Integration Center, that there is no question that such planning continues.

If we spread our homeland security dollars about the country in a diffuse and diluted fashion, we may not live to regret it.

□ 2320

It is vitally important that we recognize that our urban areas are threatened. At the same time, suburban and rural areas of this country are also threatened. They have chemical plans, pipelines, military bases, energy infrastructure, agricultural fields, transportation corridors, including rivers, barges and so on.

Risk which matches threat against vulnerability applies equally to urban and rural infrastructures and populations. Regrettably, the bill that is before us does not give us an opportunity to vindicate what we know is good policy, and that is to substitute for political formulas an allocation of first responder moneys based upon risk. The gentleman from Kentucky (Mr. ROGERS) said it is very important for us to move there, and I could not agree more.

With this amendment, we have something of a bittersweet opportunity because the amendment would transfer .45 billion dollars from a formula that admittedly is a political formula, not based on risk, to 50 of the most-threatened urban areas in the country and 30 of the most-threatened transit areas to be determined by the Department of Homeland Security, also a political formula. But at least this political formula is based in part on the actual terrorist threat and therefore putting the amount of money into this program that was requested by President Bush and by the Department of Homeland Security and taking it out of a pot that is allocated strictly according to population and strictly according to political formulas is a modest improvement.

The high-threat urban areas program, however, which this amendment would transfer money into, distributes funding only to those cities deemed high risk, meaning that Federal moneys are unavailable to 23 States without cities covered by this formula. It also means that 30 percent of total terrorism preparedness funds are off limits to 23 States. That is an imperfect result.

Mr. Chairman, terrorists have limited resources and focused energies. Congress should allocate first responder funding in a similar manner with money directed toward the places most at risk. The current process in place to allocate first responder grant funding is inadequate. It places our Nation under greater vulnerability.

Cities that apply for high-threat grants are given scores according to three factors: Population, vulnerability and threat. As I said, since this money is coming out of a pot, 60 percent of which is going according to population anyway, it is a modest improvement to send that money which was going to go to high population urban areas in the first place according to a formula that takes threat into account. That is marginally better.

Mr. Chairman, while this amendment is not an ideal vehicle for resolving these issues, it will at least allocate more of the funds in the bill according to threat. Sixty percent of the formula grants from which the .45 billion dollars would be taken are already allocated strictly according to population.

The gentleman from Kentucky (Mr. ROGERS) said it best, we should move to a threat allocation of homeland security dollars. In the meanwhile, the Sweeney amendment is a small step in that direction, and I urge my colleagues to support it.

Mr. WEINER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Sweeney amendment. We have essentially, as we try to figure out the way to do this, made or compounded three fundamental areas in allocating resources. First, I think there is consensus among a lot of law enforcement organizations across the country that have not allocated enough money, we need to do more.

Secondly, when we first began this process, we did it entirely based on population and we had the unusual circumstance that States like Wyoming got much more per capita than States like New York, and we in Congress and this subcommittee acted to respond to that challenge by creating a new high-threat, high-density program.

It was not Congress that then screwed that up, it was the Department of Homeland Security who took that program and expanded it and expanded it and expanded it to more and more cities. We had the unusual and almost surreal experience of having cities lobbying to be considered high density, high threat to the point now that we have some cities on that list of 50 that do not even have minor league baseball teams.

Perhaps this is not the vehicle, but I know the bill of the gentleman from California (Mr. COX) that is moving its way through the House seeks to take that list and limit it more closely to true high-threat, high-density areas.

A third mistake that Homeland Security has made, and the gentleman from California (Mr. COX) just referred to it, is we have this bizarre formula that takes high-threat money and allocates it first by population by a factor of nine, and then infrastructure by a factor of six, and finally threat by a factor of three. Even when we in Congress say let us allocate money based on threat, we are getting it wrong. I understand the gentleman from New York (Mr. SWEENEY) wanted to address that in this bill. It was struck down on a point of order, but we need to figure out a way to fix that problem because even when we are getting money out the door theoretically addressed toward threat, Department of Homeland Security says it is not getting there because of the formulas that they are setting.

I would say, not to reiterate what others have said, is that frankly Members can make the argument that every place in the country is a potential threat. Hypothetical threat is something we can all describe. For some cities, though, it is not hypothetical. It is real. For some cities, there are actual threats.

What I would ask is there any homeland security expert, anyone who has said on the record the way we are allocating funds in this bill makes sense? I can tell Members the people who do not, people like the police commissioner of New York, people like the 9/11 Commission, people like Secretary Ridge, who himself has now said there is no doubt in his mind that the way we are allocating money is simply wrong and needs to be redirected. This is the man who came to that position after months and months on the job, and I am glad he did.

When we talk to intelligence officials and Department of Defense officials about how they do their job, they allocate resources based on real threats, they do not do it based on hypothetical threats.

I would say it is true that the Sweeney amendment does not do everything, and I would also reiterate what so many of the opponents of this amendment have said that I agree with, and that is that this should not be regional fight. This should not be factions inside of factions fighting over this fund.

I have no intention on the agriculture bill to come to this floor and demand that New York City get a piece of that pie. It simply would not be appropriate, and I do not believe it is good policy. In this case, though, when we have real threats to places like New York, I believe the funding should be allocated.

Just to give an idea what a real threat is, I just cite for the RECORD the story of Iyman Faris, a guy who comes to New York, sits by the Brooklyn Bridge, eats lunch at a Pakistani restaurant by City Hall, and then reports back to his handlers it is too hot.

What did he mean by it is too hot? He observed at all four stanchions of the Brooklyn Bridge an NYPD cruiser that is there all day, all night at extraordinary expense to the people of the City of New York. And they decided not to do the operation, which was a plan to blow up the Brooklyn Bridge. That is not hypothetical. It is an actual threat.

I do not think it is unreasonable that a greater portion of the money coming out of this bill goes towards places that have to deal with those threats.

Mr. LATOURETTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I want to congratulate the gentleman from Kentucky (Mr. ROGERS) and the ranking member, the gentleman from Minnesota (Mr. SABO), for crafting what I think is exactly the right approach.

Their bill recognizes that all of America needs to be protected at least a little bit, and those areas of the country with the greater risk get the lion's share of the money, something like 60 percent. The bill that we had through the Committee on Transportation and Infrastructure was 70 percent, and that is exactly the right thing to do.

□ 2330

Terrorism can be the cause behind a chemical release in Texas, a hijacking in New York, a bombing in Wyoming, or the destruction of a lock on the Mississippi River.

In 1994, Mr. Chairman, I was elected to this Congress with three other freshmen from Ohio, Mr. NEY, Mr. CHABOT and Mr. Cremeans, who is sadly now passed away. There was a headline that said we were the four French guys from Ohio. If you are from a French lineage, you remember the Maginot Line where the French very seriously hardened the Maginot Line and said, Nazi Germany, you can't get us because we're hiding behind the Maginot Line. Do you know what the Nazis did? They marched around the Maginot Line.

The gentleman from Kentucky's bill recognizes that New York, California, Washington, D.C. all have to be hardened because they are the subject of chatter that the terrorists want to strike to cause the biggest splash on our friends and allies in the media, CNN and everywhere else; but the gentleman from Kentucky also recognizes that the people that live in Mr. LATHAM's Iowa, in Pennsylvania, in other parts of the country need to be protected as well. Everybody that testified before our committee says we have to recognize everybody needs to be minimally prepared so that if we have a terrorist attack, we are ready to go. The gentleman from Kentucky has accomplished that vision and I congratulate him.

Mr. LATHAM. Mr. Chairman, will the gentleman yield?

Mr. LATOURETTE. I yield to the gentleman from Iowa.

Mr. LATHAM. I thank the gentleman for yielding.

First of all, I would like to say that the gentleman from New York said that dollars going to protect my citizens in my State, their safety, their well-being, is pork. I take great offense to that. It is not pork to have people who are safe in their homes. I do not care where they live in this country.

I will also say that when we talk about this formula, talk about threat, the fact of the matter is there are some very, very large threats or potential threats in rural areas, whether you talk about nuclear energy plants, whatever. But just because they do not have people living immediately around them, they are not going to be eligible for any of the funds at all.

I would also like to address one quick point talking about intelligence. The fact of the matter is there were hundreds of U.S. agriculture documents that were found in al Qaeda caves and also a large part of the al Qaeda training manual is devoted to agri-terrorism. If you do not like to eat in New York, apparently, let us just forget about the rest of the country.

Mr. OLVER. Mr. Chairman, I move to strike the requisite number of words.

I notice that two members of the full committee are waiting, or at least one other member besides me, waiting to speak. We happen to have been brought up a few miles from each other in the State of Pennsylvania so I am not sure whether that just means we are both staying until the end.

This debate has been a wonderful debate. It has also brought back nightmares of the debates that I think many of us have taken part in that sound like school aid distribution formula fights that we have fought through in our State legislatures all the time. But in all those instances, the one thing that has been available would be a distribution of how much money was going to go to each of the districts or each of the States versus what was being proposed, a distribution that would show what was going to be going to each of the States under those circumstances. In this case that is very difficult.

What the chairman has done has been to move $450 million roughly out of the basic formula grant and put it into the urban area initiative or into the combination of other formulas. There is a basic formula grant and then there is a series of others which include transit grants, emergency management performance grants, and urban area initiatives. I am not sure whether either any one of those properly takes into account where we may have an enormous dam and a reservoir or whether it takes into account where we have very high-risk possible chemical plants or nuclear power plants. I am just not sure about that. I do not know particularly enough about this.

But I know the chairman, and now I understand why he said in full committee that we do not know what the distribution is going to be next year. All we could see was what it had been in the fiscal year 2004 and what it would be like if you moved the $450 million out of that formula and distributed it proportionately as it was in 2004 into those other categories and then give it back to the same States in that proportionate distribution, into those other States.

During the course of this debate, I have sat with that formula, with that chart that we had in full committee and done a few calculations. What shows up is that the States which have one congressional district, we all know exactly who they are, there are seven of them, they are ending up in the new formula even as it has been changed by the chairman in the work that the chairman and his staff have done, very careful and hard work, that what shows up is that those States end up with about $20 million per congressional district, a little bit under $20 million. About 18, actually, on average. The highest is $17.9 million and the lowest is $16.3 million.

Then there is also a disproportionate amount of money that goes to States which have only two congressional districts. My colleagues know exactly who those are, too. There are five of those. They are getting between $9 million and $10 million per congressional district there. That is what that formula looks like. If you total up all 12 States, coming to 17 congressional districts, the formula as it would be so calculated comes out to be about $220 million that is going into those States.

The same formula shows that Ohio, one State that has 18 congressional districts, is going to get less than half as much money. One State is going to get less than half as much money. My colleagues can compare what Ohio looks like versus what those other 12 States look like that are getting more than twice as much money in total than the State of Ohio. Oddly enough, that calculation also shows that the States, and this, I think, may surprise, that the States that get the least per capita, the least per population, are Michigan and North Carolina of all things.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. OLVER) has expired.

(By unanimous consent, Mr. OLVER was allowed to proceed for 1 additional minute.)

Mr. OLVER. The problem is that we do not know exactly how much will be distributed, and we cannot know because all of these categories are not purely by a distribution, and there is still an inequity because no State should be getting that much more than some other States, and the inequities that show up here are bad; but I do not think that we can be at all certain that moving another $450 million is not going to tip the scales beyond what most of us would then think was going to be fair.

This is a case where what the chairman and the ranking member have been doing is moving in a right direction, it needs to be moved more; but I have not yet seen the formula that would show that what is going to come out of the result of this amendment being proposed would actually be better and whether we may have tipped beyond where it needs to go to be reasonably fair to everyone. So I think we ought to allow the chairman and the ranking member to continue to improve these formulas.

Mr. SHERWOOD. Mr. Chairman, I move to strike the requisite number of words. I rise against the amendment. My district is 150 miles from New York City. I grew up at 16 years old driving trucks across the George Washington Bridge. I understand what the infrastructure is to the East, and I understand also a little bit about the threat. But this formula has been pretty carefully worked out on population and threat. If you are going to take $450 million away from the rest of the country and give it to metropolitan New York, how are you going to do that? You would have to take $35 million away from California. You would have to take $4 million away from the District of Columbia. I think that this is probably one of the high-threat areas. You would have to take $15 million away from Illinois. I think Chicago is probably a pretty high-threat area. You would have to take $14.75 away from my home State of Pennsylvania. On and on and on and on.

□ 2340

This thing has been worked out. I admire the pluck of my friends from New York to try to get the money for what they think they need it but the whole country needs the money. The sheet that shows us where the $450 million will come from will be on the table.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I move to strike the requisite number of words.

I think the debate has given the impression to my colleagues that this is an isolated regional question. But I think the reason why the Sweeney amendment has legs and maybe might run across the finish line is because it does comport with good sense and reasonableness, and, frankly, I think the amendment really addresses what most Members would understand as the very defining question of terrorism. Terrorism is threat, is where we are most threatened but it is also where it may ultimately impact the individuals who may be subjected to terrorism.

So, Mr. Chairman, I think it is important to note that as I understand the formula in the amendment, it would allow those cities that can be determined to have the greater threat or areas to be able to apply for those dollars and to receive them based upon that threat analysis.

Might I simply share with my colleagues that the President's budget request requested nearly ½ of $1 billion more for the high threat urban areas than the bill currently funds. In addition, I think it is worthy of noting that the authorizing committee for the Department of Homeland Security, a committee of which I am a member, who happens to have authored in a bipartisan manner H.R. 3266, the Faster and Smarter Funding for First Responders Act of 2003, followed the threat analysis because we found in hearings that that was the most sophisticated but the most balanced way of addressing security in the Nation.

In an article in the Houston Chronicle on April 9, 2003, Houston finds itself as number seven on the vulnerability list. There may be other cities. We happen to be the home of many refineries. Other cities may have other unique and special needs. Seattle was a city on the list because it had been subjected to a terrorist attack around the turn of the century. If we reflect on where we have heard threats in the last 2 years since 2001, we would note that there were incidences in Los Angeles, there is constant chatter and incidences here in Washington, DC, and certainly as noted by my colleagues from New York, there are incidences there. There may be others. But obviously a terrorist desires to not only destroy but to intimidate, and symbols give them a greater leverage of intimidation. The symbols in New York, the oil industry in Houston, the symbols in Los Angeles and other cities similarly situated.

Last November Secretary Ridge said he is willing to base as much as half of the grant money DHS distributes to State and local governments on a formula that includes threat analysis. In testimony before the House Committee on Appropriations, a statement was made: ''We at the Department believe that more of the overall funds available to State and local governments need to be distributed using the risks or consequence based formula of population density, presence, and vulnerability of critical infrastructure of national significance and credible threats.'' That leads us to believe that larger cities are the most vulnerable as it relates to terrorism.

So I would simply suggest that this is not a question of reasonableness and isolationism and pointing to one area over another. This is a comprehensive understanding that we are one America and that when we secure large cities, it is securing rural and villages and smaller cities and other places that may not be the recipient of as large a share of these funds.

Documentation suggests that threat analysis is important, and one of the major issues when we begin to discuss the issues of Department of Homeland Security is whether or not we have done an entire assessment of the needs of this country. I do not believe we have yet completed that task to assess the threat all over the country, but what the intelligence shows us is that these major cities with major symbols

are extremely vulnerable. I would hope that my colleagues would look warmly on this amendment and responsibly because frankly I believe that if we ignore intelligence that we are seeking to improve, then we ignore the purpose of homeland security, to secure the homeland where the threat is. The threat is in large cities. Houston happens to be one. This is not a regional question. This is an American question.

Mr. WELDON of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Chairman, I yield to the distinguished chairman of the subcommittee.

Mr. ROGERS of Kentucky. Mr. Chairman, I thank the gentleman for yielding to me.

I just want to point out to the gentlewoman from Texas that under this amendment the State of Texas would lose $23.5 million.

Mr. WELDON of Pennsylvania. Mr. Chairman, this debate has been dominated by one side, and I think we need to have everyone have a chance to air their feelings here.

We are arguing over $450 million and who is going to get the bulk of that money. Four hundred and fifty million dollars is not going to protect New York City from another attack. If Members want to put the money into where it is going to do the best good, then put it into our intelligence system because that is where they are going to understand where the next threat is coming from. When we understand where the threat comes from, then we can deal with it. If we want to put the money into a capability, we need that kind of a capability to respond to the kind of threat that we saw on September 11.

Perhaps if we had done back in the 1990s more in this body and not cut the legs off our intelligence community when we stopped the CIA from using those sources that, in fact, were considered to be tied in with corruption, we would have been better able to understand where the emerging threats were coming from.

Mr. Chairman, I think it is unfortunate that we say that this money going to cities will protect them. I was in the Trade Center the day after the disaster occurred and I was down at ground zero. Did I see all of New York's people there? Yes. But I saw urban search and rescue teams from Delaware, from New Jersey, from Pennsylvania. I saw them there from Michigan. I saw them there from Georgia. Twenty-two urban search and rescue teams came from all over America to assist New York because New York could not handle it.

The fact is, Mr. Chairman, as a Nation if we are going to deal with threats, we must deal with them from a national perspective, not based on one city or one particular urban area.

Mr. Chairman, on January 28, 1975, I was the assistant fire chief in a town of 5,000 people. On that night we had the largest incident in America. Two ships collided, killed 29 people, and burned out of control for 3 days, $100 million of property damage. According to this standard, that will never happen in a small area. It will only happen in a big city. For us to try to argue over how we can split up $450 million, and my district borders Philadelphia, by only giving it to the inner-city urban areas I think is wrong.

I think the chairman has done a good job with the ranking member, and I support the chairman's mark and oppose the amendment.

Mr. ROGERS of Kentucky. Mr. Chairman, this debate could go on a long time. I ask unanimous consent that all debate end after 10 minutes, that the time be controlled by the gentleman from Minnesota (Mr. SABO) and this gentleman.

Mr. SABO. Mr. Chairman, those are decisions that are at a higher pay level than mine, and I have to object.

The CHAIRMAN. Objection is heard.

□ 2350

Mr. TURNER of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be brief. I want to say I think we have all seen the pitfalls tonight of these formula-based funding formulas that divide this House along regional, urban, and rural lines.

I want to mention something that the gentleman from Kentucky (Chairman ROGERS) mentioned early in this debate, and that is that there is a better way to do this, and it is contained in legislation that the gentleman from California (Chairman COX) and I have cosponsored that came out of the Select Committee on Homeland Security unanimously, that went through the Committee on Energy and Commerce, the Committee on Transportation and the Committee on the Judiciary. It also is reaffirmed by the language the gentleman from Kentucky (Chairman ROGERS) placed in this bill. And that is to say that we ought to have one grant fund that is distributed to establish and to fund what we call the essential capabilities that every State, every community, and every region needs to prepare and defend against a terrorist attack.

That process of establishing essential capabilities would end the debate we are having tonight. The essential capabilities would be determined based on the threat and vulnerability information that this Congress already has required in the Homeland Security Act that the Homeland Security Department prepared.

If we did that, we would have a road map. Tonight we are flying by the seat of our pants. We do not know what the real needs are to defend this country.

The establishment of essential capabilities would give us that road map, we would know how much progress we would make, we would know what the measures, the metrics, the standards are we are trying to achieve, and it would end the kind of debate we are having to have tonight.

Mr. Chairman, I urge Members when that bill hopefully comes to the floor that we adopt it, that we agree unanimously that the right way to defend America is to be sure that we develop essential capabilities for every community in America based on the real threats and vulnerabilities that this Nation faces.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. BARTON of Texas. Mr. Chairman, I have before me dueling charts about this amendment. If you believe this chart that the gentleman from New York (Mr. SWEENEY) has put out, my State is disadvantaged by the bill before us. If you believe this chart that the distinguished subcommittee chairman of the appropriations subcommittee has put out, my State is disadvantaged by the amendment of the gentleman from New York (Mr. SWEENEY).

Now, both of the gentleman's charts are honorable. So this is a question literally that is a 50/50 question, and they are both right.

The debate that we have had tonight is one of those debates that reminds me of the Founding Fathers' debate when we were putting our Constitution together, because you had the rural States that thought everything should be done on a State basis, the little States; and then you had the urban States that thought everything should be done on a population basis. The result was the Great Compromise, where the House of Representatives is based on population and the Senate is based on each State gets two votes.

Now, earlier tonight one of the members of my committee, the gentleman from New York (Mr. FOSSELLA), rose and made a point of order on part of this bill that had a funding formula that was legislating on an appropriations bill for about $3.4 billion, and that point of order was sustained.

As the gentleman from Texas (Mr. TURNER) has pointed out and the gentleman from California (Mr. COX) has pointed out, the chairman and the ranking member of the Select Committee on Homeland Security, their committee and the committee that I chair, the Committee on Energy and Commerce, have reported a first responder bill that is waiting to come to the floor.

So the vote on this is really a coin flip. But in this case, I think we should go with the subcommittee chairman, the gentleman from Kentucky (Mr. ROGERS), and oppose the Sweeney amendment, knowing that between now and conference with the other

body, we are going to have to come up with a formula similar to the one that our Founding Fathers did with the Great Compromise between the big States and the little States, where we have a pool of money that is based on one man-one vote, and then we have another pool that is based on need with some sort of a grant application process. I am going to work on that from the authorization level, and I know many others are willing to.

So I think this is really one of those debates where both sides are going to win, because the ultimate result is going to be a formula that is different than the current formula. But for this vote tonight, I urge a ''no'' vote on the amendment offered by my good friend, the gentleman from New York (Mr. SWEENEY).

Mr. SABO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, while I objected to a time limit a short time ago, let me suggest that if only those Members that had something unique and new to say chose to speak, we might be able to vote fairly soon.

Ms. GINNY BROWN-WAITE of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that the gentleman from Kentucky (Chairman ROGERS) has struck a pretty darn good balance in this bill.

I oppose the amendment. I am originally from New York, and one of the things that I learned is when New York City gets involved, the rest of the State at that time suffers. According to the chart by the gentleman from Kentucky (Mr. ROGERS), Florida would lose $18.7 million. We cannot afford to lose that because of all the ports that we have, because of the water supply, certainly because of our agricultural interests.

Let me share with you that I represent a district that also has a nuclear power plant. If you do not think that those former New Yorkers who live near that power plant or who want their water supply protected do not deserve the same protection as New Yorkers, I am sorry, that is not what those of us who come from rural areas got elected to represent.

I think that the gentleman from Kentucky (Mr. ROGERS) has struck a great balance here. Obviously, this is something that will be conferenced, and I would urge a ''no'' vote against my good friend and current New Yorker from a former New Yorker, the gentleman from New York (Mr. SWEENEY).

Mr. ROTHMAN. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. ROTHMAN. Mr. Chairman, I am from the Garden State of New Jersey, from which most of the people who came to rescue the people in the burning towers came, from the place where the victims of 9/11 were transported to Liberty Island, to be triaged and cared for, where we have four nuclear power plants, chemical plants, two tunnels to New York City, several bridges to New York City, et cetera.

I would like to commend the subcommittee chairman, the gentleman from Kentucky (Mr. ROGERS), for making extraordinary progress from where we were before this bill was written; and I acknowledge his good faith and sincere effort in moving in the right direction. And I know that it is very difficult to balance the equities and the interests of all concerned.

However, it is 3 years, Mr. Chairman, since 9/11, 3 years, when every State in the Union has gotten some money for their homeland security. The question is, whether now, 3 years later, we have waited long enough for the largest portion of moneys that go out on this homeland security bill, whether they are given to those areas that are most at risk and that are most targeted by the terrorists.

How many years do we have to wait before we get to 100 percent? We are at 90 percent with this bill, 92 percent. Do you think the terrorists are going to wait several years before they arrive at the likely places where they have said they are going to hit and which are underfunded by the present bill?

Finally, let me comment on my distinguished subcommittee chairman's chart, which we had the good fortune of discussing at the Committee on Appropriations markup. I believe that nothing has changed in the finding, and please correct me. The distinguished subcommittee chairman's chart that shows the amount of money per State that a State would lose if this amendment were approved does not tell, with respect, the full story.

□ 0000

It says we are where everyone would begin when the risk assessments would then take place. So, for example, under the distinguished subcommittee chairman's list, the particular dollar figure for your State does not tell you what your State will get after the risk assessment occurs.

Now, if you have a State that has a lot of targets, you have nothing to worry about, because the same folks in this administration who have made the judgments about the nature and the level of the risk will be deciding, with the same criteria, on these extra funds.

I guess if you do not have any significant risks compared to the other States and regions, then you will suffer a loss. But with respect to the gentleman from Kentucky (Chairman ROGERS)'s list, it does not tell you what you are going to end up with after the risk assessment.

Again, I want to congratulate the subcommittee chairman and all of those who worked so hard to move this bill as far as it has come, but it needs to go further. We have waited long enough, and the terrorists are not going to wait 2 or 3 years before we get to 100 percent.

Mr. YOUNG of Alaska. Mr. Chairman, I rise today to oppose the amendments offered by my colleagues from New York.

The amendments that they have offered would significantly increase the likelihood a terrorist incident occurring outside of a major metropolitan area will have disastrous effects.

This funding is not solely intended for security to prevent a terror attack, but also for preparedness, in case an event happens.

Terrorism can happen anywhere. That is why we must be prepared everywhere.

Allocating these funds solely on the risk of terror is just robbing Peter to pay Paul. Large cities and metropolitan areas will be safe and prepared, but nobody else will.

We have heard a parade of members that would benefit from a risk of terrorism only allocation. If this allocation basis is adopted, and a terrorist attacks your community, what will you tell them, I'm sorry we weren't prepared, but it's okay, because a few big cities are?

Providing for a State minimum allocation is the only way to ensure that every community is prepared.

I urge all of my colleagues to think very carefully before supporting these amendments, and to think about what such an allocation would mean if they do not represent a large metropolitan area or have significant critical infrastructure. Most members of this body do not, and therefore most members' districts will not be prepared under this scheme.

The Transportation Committee has put forward a proposal that does not require this false choice, between providing for national preparedness and providing preparedness for a select few.

When this proposal is considered during the normal legislative process, I urge my colleagues to support this alternative, which prepares everyone for terror attacks.

Oppose these amendments that leave most communities unprepared for terror attacks.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SWEENEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SWEENEY. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York (Mr. SWEENEY) will be postponed.

SEQUENTIAL VOTES POSTPONED IN THE COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order: Amendment No. 17 offered by Mr. DEFAZIO of Oregon, and Amendment No. 3 offered by Mr. SWEENEY of New York.

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

AMENDMENT NO. 17 OFFERED BY MR. DEFAZIO

The CHAIRMAN. The pending business is the demand for a recorded vote on Amendment No. 17 offered by the gentleman from Oregon (Mr. DEFAZIO) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 228, not voting 25, as follows:

[Roll No. 265]

AYES—180

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

NOES—228

Aderholt
Akin
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carson (IN)
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Cramer
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
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Jones (NC)
Keller
Kennedy (MN)
Kilpatrick
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCollum
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Olver
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pombo
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sabo
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Young (FL)

NOT VOTING—25

Ballenger
Bereuter
Berman
Clay
DeMint
Dicks
Dooley (CA)
Gephardt
Gordon
Goss
Harman
Hastings (FL)
Isakson
Johnson, Sam
Lipinski
Murtha
Neal (MA)
Nethercutt
Pickering
Slaughter
Smith (WA)
Stark
Tauzin
Waxman
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 0025

Mr. NUNES changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 3 OFFERED BY MR. SWEENEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from New York (Mr. SWEENEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 171, noes 237, not voting 25, as follows:

[Roll No. 266]

AYES—171

Ackerman
Akin
Andrews
Baca
Becerra
Bell
Berkley
Bishop (NY)
Blumenauer
Boehlert
Bonilla
Brady (PA)
Brady (TX)
Brown, Corrine
Burgess
Calvert
Cantor
Capuano
Cardin
Carter
Chabot
Conyers
Cooper
Costello
Cox
Crenshaw
Crowley
Culberson
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
Delahunt
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Dreier
Emanuel
Engel
Eshoo
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Ford
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Granger
Green (TX)
Greenwood
Grijalva
Gutierrez
Harris
Hinchey
Hoeffel
Holt
Honda
Houghton
Hoyer
Hyde
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (OH)
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kilpatrick
King (NY)
Kirk
Kline
Kolbe
Lampson
Lantos
Lee
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lynch
Maloney
Markey
McCarthy (MO)
McCarthy (NY)
McGovern
McHugh
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, Gary
Miller, George
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Olver
Owens
Pallone
Pascrell
Payne
Pelosi
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Rangel
Reynolds
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Sánchez, Linda T.
Sanchez, Loretta
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sessions
Shadegg
Shays
Sherman
Smith (NJ)
Smith (TX)
Solis
Sullivan
Sweeney
Tancredo
Tauscher
Thompson (CA)
Tiberi
Tierney
Towns
Udall (CO)
Van Hollen
Velázquez
Walsh
Watson
Weiner
Wexler
Wolf
Woolsey
Wynn

NOES—237

Abercrombie
Aderholt
Alexander
Allen
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burns
Burr
Burton (IN)
Buyer
Camp
Cannon
Capito
Capps
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Chocola
Clyburn
Coble
Cole
Collins
Cramer
Crane
Cubin
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeGette
DeLauro
Doggett
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Etheridge
Evans
Everett
Forbes
Franks (AZ)
Frost
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Graves
Green (WI)
Gutknecht

Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hooley (OR)
Hostettler
Hulshof
Hunter
Inslee
Issa
Istook
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (NC)
Kanjorski
Kaptur
Kildee
Kind
King (IA)
Kingston
Kleczka
Knollenberg
Kucinich
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lucas (KY)
Lucas (OK)
Majette
Manzullo
Marshall
Matheson
Matsui
McCollum
McCotter
McCrery
McDermott
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Mollohan
Moore
Moran (KS)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Ose
Otter
Oxley
Pastor
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Pomeroy
Price (NC)
Rahall
Regula
Rehberg
Renzi
Reyes
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ross
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanders
Sandlin
Schrock
Sensenbrenner
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Snyder
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Toomey
Turner (OH)
Turner (TX)
Udall (NM)
Upton
Visclosky
Vitter
Walden (OR)
Wamp
Waters
Watt
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wu
Young (FL)

NOT VOTING—25

Ballenger
Bereuter
Berman
Clay
DeMint
Dicks
Dooley (CA)
Gephardt
Gordon
Goss
Harman
Hastings (FL)
Isakson
Johnson, Sam
Lipinski
Murtha
Neal (MA)
Nethercutt
Pickering
Slaughter
Smith (WA)
Stark
Tauzin
Waxman
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 0033

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. KILPATRICK. Mr. Chairman, personal reasons prevent me from being present for legislative business scheduled for today, Thursday, June 17, 2004. Had I been present, I would have voted "no" on ordering the previous question (rollcall No. 256); "no" on H. Res. 681, a rule providing for consideration of H.R. 4520 (rollcall No. 257); "aye" on the motion offered by Mr. RANGEL to recommit the bill H.R. 4520 (rollcall No. 258); "no" on final passage of H.R. 4520 (rollcall No. 259); "aye" on approving the Journal (rollcall No. 260); "aye" on the amendment to H.R. 4568 offered by Mr. HINCHEY (rollcall No. 261); "aye" on the amendment to H.R. 4568 offered by Mr. SANDERS (rollcall No. 262); "aye" on the amendment to H.R. 4568 offered by Mr. HOLT (rollcall No. 263); and "aye" on final passage of H.R. 4568 (rollcall No. 264).

Mr. ROGERS of Kentucky. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GARRETT of New Jersey) having assumed the chair, Mr. GILLMOR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4567) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes, had come to no resolution thereon.

## AMERICAN ENERGY NEEDS

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

Mr. MURPHY. Mr. Speaker, this summer Americans are facing record-high prices for gasoline. There are some who think we can lower prices by diverting oil from our Strategic Petroleum Reserve. This is shortsighted and wrong. Not only would releasing oil have a short-term, negligible impact on prices, it would wipe out our reserves, leaving us vulnerable to terrorist attacks targeting pipelines and oil transportation.

In 1973, America was 30 percent dependent on foreign oil. Today that number has doubled to an all-time high of nearly 60 percent.

We must develop a three-point plan to stop this dependence and lower fuel prices. We can start with conservation. Fuel-efficient vehicles, decreasing energy use in Federal buildings by 20 percent, and improved incentives for conservation products will help reduce energy demands.

We must diversify our energy sources. Our own coal reserves can provide hundreds of years of energy and clean-coal power plants can alleviate environmental concerns with older plants, and we can make better use of nuclear energy, which currently provides only 20 percent of the Nation's electricity.

We must explore more domestic sources. The resources are here, along with environmentally sound ways to tap into them. There are 16 million acres in ANWR and proposals to drill there would include only an area equivalent to the size of a hand on a football field.

Mr. Speaker, I ask that we move forward on these issues to help with our energy needs in the future.

High fuel prices and a dangerous dependence on foreign oil are a problem for all Americans. It adds costs to fuel and goods. We cannot afford to let this become a partisan issue, nor should we engage in shortsighted solutions that in the end are not solutions at all.

We need to solve the energy problems for the American people. That future must be our priority.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

8570. A letter from the Register Liaison Officer, Department of Defense, transmitting the Department's final rule — TRICARE Program; Inclusion of Anesthesiologist Assistants as Authorized Providers; Coverage of Cardiac Rehabilitation in Freestanding Cardiac Rehabilitation Facilities. (RIN: 0720-AA76) received May 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

8571. A letter from the Register Liaison Officer, Department of Defense, transmitting the Department's final rule — TRICARE Program; Inclusion of Anesthesiologist Assistants as Authorized Providers; Coverage of Cardiac Rehabilitation in Freestanding Cardiac Rehabiliation Facilites. (RIN: 0720-AA76) received May 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

8572. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Multiyear Procurement Authority for Environmental Services for Military Installations [DFARS Case 2003-D004] received May 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

8573. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Berry Amendment Changes [DFARS Case 2003-D099] received May 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

8574. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Timothy A. Kinnan, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

8575. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Authorization of the enclosed list of officers of the United States Air Force to wear the insignia of the next higher grade in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

8576. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Authorization for Major General Roger A. Brady and Brigadier General Michael A. Collings of the United States Air Force to wear the insignia of the next higher grade in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

8577. A letter from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting the Department's final rule — Merchant Marine Training [Docket Number: MARAD-2004-17760] (RIN: 2133-AB60) received May 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

8578. A letter from the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, transmitting the Department's final rule — Government Securities Act Regulations; Protection of Customer Securities and Balances (RIN: 1505-AA94) received June 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8579. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — National Flood Insurance Program (NFIP); Assistance to Private Sector Property Insurers; Extension of Term of Arrangement (RIN: 1660-AA29) received May 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8580. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7829] received May 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8581. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule — Organization and Operations of Federal Credit Unions; Description of NCUA — received May 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8582. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule — OMB Control Numbers — received May 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8583. A letter from the Assistant Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Disclosure of Breakpoint Discounts by Mutual Funds [Release Nos. 33-8427; 34-49817; IC-26464l File No. S7-28-03] (RIN: 3235-AI95) received June 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8584. A letter from the Assistant Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Alternative Net Capital Requirements for Broker-Dealers That Are Part of Consolidated Supervised Entities [Release No. 34-49830; File No. S7-21-03] (RIN: 3235-AI96) received June 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8585. A letter from the Assistant Secretary, Securities and Exchange Commission, transmitting the Commission's final rule — Supervised Investment Bank Holding Companies [Release No. 34-49831; File No. S7-22-03] (RIN: 3235-AI97) received June 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

8586. A letter from the Assistant Secretary, Office of Special Education and Rehabilitative Service, Department of Education, transmitting the Department's final rule — National Institute on Disability and Rehabilitation Research — Disability and Rehabilitation Research Projects and Centers Program — Rehabilitation Engineering Research Centers (RIN: 1820-ZA33) received June 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

8587. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Belgium, Greece, Turkey, Israel, Poland, and the Republic of Korea (Transmittal No. DDTC 024-04), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

8588. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Germany (Transmittal No. DTC 004-04), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

8589. 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 Sweden (Transmittal No. DDTC 045-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8590. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract with Japan (Transmittal No. DDTC 053-03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8591. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to South Korea (Transmittal No. DDTC-043-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

8592. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

8593. A letter from the Chair, Commission on International Religious Freedom, transmitting the Commission's 2004 Annual Report, pursuant to 22 U.S.C. 6412 Public Law 105—292 section 102; to the Committee on International Relations.

8594. A letter from the Director, Defense Security Cooperation Agency, transmitting in accordance with Section 21(c)(2) of the Arms Export Control Act, Executive Order 11598 and Department of Defense Directive 5105.65, a report on the death of an employee of Vinnell Arabia; to the Committee on International Relations.

8595. A letter from the Chairman of the Board, Pension Benefit Guaranty Corporation, transmitting the semiannual report on activities of the Inspector General of the Pension Benefit Guaranty Corporation for the period October 1, 2003 through March 31, 2004, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

8596. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

8597. A letter from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

8598. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

8599. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

8600. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

8601. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

8602. A letter from the Secretary, Department of Energy, transmitting in response to the annual Competitive Sourcing reporting requirement contained in section 647(b) of Division F of the Consolidated Appropriations Act, for FY 2004, Pub. L. 108-199, a report on the Department's Competitive Sourcing program for FY 2003; to the Committee on Government Reform.

8603. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

8604. A letter from the Chair, Equal Employment Opportunity Commission, transmitting the semiannual report on the activities of the Inspector General and management's report for the period ending March 31, 2004, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

8605. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting Pursuant to Section 3(a) of the Government in the Sunshine Act, 5 U.S.C. 552(b)(j), the Commission's annual report for calendar year 2003; to the Committee on Government Reform.

8606. A letter from the Chairman and General Counsel, National Labor Relations Board, transmitting the semiannual report on the activities of the Office of Inspector General of the National Labor Relations Board for the period October 1, 2003 through March 31, 2004, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 8G(h)(2); to the Committee on Government Reform.

8607. A letter from the Acting Director, National Science Foundation, transmitting as required by Section 647(b) of Division F of the Consolidated Appropriations Act, FY 2004, Pub. L. 108-199, the Foundation's report on its competitive sourcing efforts for FY 2003; to the Committee on Government Reform.

8608. A letter from the Commissioner, Social Security Administration, transmitting the Adminstration's annual inventory as required by Public Law 105-270, the Federal Activites Inventory Reform (FAIR) Act of 1998; to the Committee on Government Reform.

8609. A letter from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a draft bill ''To modify the boundary of the Wilson's Creek National Battlefield in the State of Missouri, and for other purposes''; to the Committee on Resources.

8610. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Iowa Regulatory Program [IA-013-FOR] received May 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8611. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — West Virginia Regulatory Program [WV-101-FOR] received June 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8612. A letter from the Director, Office of Surface Mining, Department of the Interior, transmitting the Department's final rule — Maryland Regulatory Program [MD-053-FOR] received June 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8613. A letter from the Assistant Secretary, National Park Service, Department of the Interior, transmitting the Department's final rule — Canyonlands National Park — Salt Crrek Canyon (RIN: 1024-AD23) received June 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8614. A letter from the Director, National Oceanic and Atmospheric Administration, transmitting the 2003 report on the Status of Fisheries of the United States, pursuant to Section 304 of the Magnuson-Stevens Fishery

Conservation and Management Act, as amended by the Sustainable Fisheries Act on October 11, 1996; to the Committee on Resources.

8615. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; Highly Migratory Species Fisheries [Docket No. 031125294-4091-02; I.D. 102903C] (RIN: 0648-AP42) received May 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8616. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Westerm Pacific; Pacific Coast Groundfish Fishery; Temporary Closure for the Shore-based Whiting Sector [Docket No. 031216314-4118-03; I.D. 052004B] (RIN: 0648-AR54) received June 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8617. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; 2004 Management Measures [Docket No. 040429135-4135-01; I.D. 042204G] (RIN: 0648-AS03) received May 26, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8618. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Sea Turtle Conservation: Additional Exception to Sea Turtle Take Prohibitions [Docket No. 040127028-4130-02; I.D. 012104B] (RIN: 0648-AR69) received June 2, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8619. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Designation of the AT1 Group of Transient Killer Whales as a Depleted Stock Under the Marine Mammal Protection Act (MMPA) [Docket No. 031003245-4160-02; I.D. 122702A] (RIN: 0648-AR14) received June 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8620. A letter from the Deputy Assistant Administrator for Operations, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Dolphin and Wahoo Fishery off the Atlantic States [Docket No. 031007250-4079-02; I.D. 091503E] (RIN: 0648-AO63) received May 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8621. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole in the Bering Sea and Aleutian Islands Area [Docket No. 031124287-4060-02; I.D. 051804B] received June 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

8622. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting in accordance with the Federal Activities Inventory Reform Act of 1998, the Department's FY 2003 inventory of commercial and inherently governmental activities; to the Committee on the Judiciary.

8623. A letter from the Secretaries, Departments of Defense and Veterans Affairs, transmitting a report for FY 2003 regarding the implementation of the health coordination and sharing activities portion of the National Defense Authorization Act of 2003 (Pub. L. 107-314) and an estimate of the cost to prepare this report, as required by Title 38, Chapter 1, Section 116, pursuant to 38 U.S.C. 8111(f); jointly to the Committees on Armed Services and Veterans' Affairs.

## 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. OXLEY: Committee on Financial Services. H.R. 4471. A bill to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (Rept. 108–550). Referred to the Committee of the Whole House on the State of the Union.

Mr. TOM DAVIS of Virginia: Committee on Government Reform. H.R. 3797. A bill to authorize improvements in the operations of the government of the District of Columbia, and for other purposes (Rept. 108–551 Pt. 1).

Mr. TOM DAVIS of Virginia: Committee on Government Reform. H.R. 3751. A bill to require that the Office of Personnel Management study and present options under which dental and vision benefits could be made available to Federal employees and retirees and other appropriate classes of individuals; with amendments (Rept. 108–552). 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 Committees on Education and the Workforce and Financial Services discharged from further consideration. H.R. 3797 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. 3797. Referral to the Committees on Education and the Workforce and Financial Services extended for a period ending not later than June 17, 2004.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. FILNER:

H.R. 4603. A bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain on real property held by individuals or small businesses which is involuntarily converted as the result of the exercise of eminent domain, without regard to whether such property is replaced; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska (for himself, Mr. QUINN, and Mr. PORTER):

H.R. 4604. A bill to improve railroad security and to authorize railroad security funding, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GEORGE MILLER of California (for himself, Ms. PELOSI, Mr. KILDEE, Mr. HOYER, Mr. OWENS, Mr. PAYNE, Mr. ANDREWS, Mr. CLYBURN, Mr. MENENDEZ, Ms. WOOLSEY, Mr. HINOJOSA, Mrs. MCCARTHY of New York, Mr. TIERNEY, Mr. KIND, Mr. KUCINICH, Mr. WU, Mr. HOLT, Mr. DAVIS of Illinois, Mr. GRIJALVA, Ms. MAJETTE, Mr. RYAN of Ohio, and Mr. BISHOP of New York):

H.R. 4605. A bill to provide for review of determinations on whether schools and local educational agencies made adequate yearly progress for the 2002-2003 school year taking into consideration subsequent regulations and guidance applicable to those determinations, and for other purposes; to the Committee on Education and the Workforce.

By Mr. BACA (for himself, Mrs. NAPOLITANO, Mr. CALVERT, Ms. MILLENDER-MCDONALD, Ms. LINDA T. SANCHEZ of California, and Mr. GARY G. MILLER of California):

H.R. 4606. A bill to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes; to the Committee on Resources.

By Mr. EHLERS (for himself and Mr. GILCHREST) (both by request):

H.R. 4607. A bill to establish the National Oceanic and Atmospheric Administration (NOAA), to amend the organization and functions of the NOAA Advisory Committee on Oceans and Atmosphere, and for other purposes; 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 Mr. LAHOOD (for himself, Mr. HASTERT, Mr. JOHNSON of Illinois, Mr. DAVIS of Illinois, Mr. RUSH, Mr. HYDE, Mr. EVANS, Mr. MANZULLO, Mr. KIRK, Mr. JACKSON of Illinois, Mr. LIPINSKI, Mr. SHIMKUS, Mr. EMANUEL, Ms. SCHAKOWSKY, Mr. CRANE, Mrs. BIGGERT, Mr. WELLER, Mr. GUTIERREZ, Mr. COSTELLO, Mr. LEWIS of California, Mr. SANDLIN, Mr. WOLF, Mr. MILLER of Florida, Mr. PORTMAN, Mr. UPTON, Mr. FROST, Mr. PETRI, and Mr. BILIRAKIS):

H.R. 4608. A bill to name the Department of Veterans Affairs outpatient clinic located in Peoria, Illinois, as the ''Bob Michel Department of Veterans Affairs Outpatient Clinic''; to the Committee on Veterans' Affairs.

By Mr. MEEHAN:

H.R. 4609. A bill to amend title 18, United States Code, to modify the definition of the United States for the purposes of the prohibition against torture; to the Committee on the Judiciary.

By Mr. PICKERING (for himself and Ms. ESHOO):

H.R. 4610. A bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes; to the Committee on Energy and Commerce.

By Mr. VITTER:

H.R. 4611. A bill to enable increased gasoline supplies and otherwise ensure lower gasoline prices in the United States; to the Committee on Energy and Commerce, and in addition to the Committees on Resources, Agriculture, Transportation and Infrastructure, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GARRETT of New Jersey:

H. Con. Res. 453. Concurrent resolution celebrating the establishment of democracy in Iraq and urging the people of the United States and of other countries in all communities and congregations to ring bells on June 30, 2004, to commemorate the restoration of freedom to the people of Iraq; 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. MCINNIS:

H. Con. Res. 454. Concurrent resolution commemorating over half a century of adjudication under the McCarran Amendment of rights to the use of water; to the Committee on the Judiciary.

By Mr. PALLONE:

H. Con. Res. 455. Concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued to promote public awareness of, and increased research relating to, Chrohn's Disease; to the Committee on Government Reform.

By Mr. UDALL of Colorado (for himself, Mrs. CHRISTENSEN, Mr. GRIJALVA, Mr. OLVER, Mr. MCNULTY, Mr. ACEVEDO-VILA, Ms. BORDALLO, Ms. LINDA T. SANCHEZ of California, Mr. STENHOLM, Ms. ROYBAL-ALLARD, and Mr. GORDON):

H. Con. Res. 456. Concurrent resolution recognizing that prevention of suicide is a compelling national priority; to the Committee on Energy and Commerce.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 99: Mr. SMITH of New Jersey, Mr. GORDON, and Mr. DEAL of Georgia.

H.R. 111: Mr. BILIRAKIS.

H.R. 112: Mr. SMITH of Texas.

H.R. 290: Mr. DOGGETT, Ms. ROS-LEHTINEN, Mr. STRICKLAND, and Mr. NORWOOD.

H.R. 716: Mr. REYES.

H.R. 1083: Mr. EMANUEL and Mrs. JO ANN DAVIS of Virginia.

H.R. 1359: Mr. VITTER and Mr. PRICE of North Carolina.

H.R. 1477: Mr. BERMAN.

H.R. 1639: Mr. LANTOS.

H.R. 1684: Mr. MARKEY and Mr. RAHALL.

H.R. 1688: Ms. ESHOO and Mr. PRICE of North Carolina.

H.R. 1693: Mr. GREEN of Wisconsin.

H.R. 1716: Mr. CHANDLER.

H.R. 2023: Mr. PASCRELL, Mr. RANGEL, Mrs. BONO, and Mr. PAYNE.

H.R. 2032: Mr. KANJORSKI.

H.R. 2037: Mr. WATT.

H.R. 2173: Mr. RANGEL and Mr. MCNULTY.

H.R. 2305: Mr. GRIJALVA.

H.R. 2491: Mr. STRICKLAND.

H.R. 2505: Mr. OLVER.

H.R. 2585: Mr. KENNEDY of Rhode Island.

H.R. 2727: Mr. SIMMONS.

H.R. 2863: Ms. CORRINE BROWN of Florida and Mr. SHUSTER.

H.R. 2890: Mr. OTTER.

H.R. 2966: Mr. MCCOTTER.

H.R. 3015: Mr. GONZALEZ.

H.R. 3069: Mr. HYDE, Mr. PEARCE, Mr. GARY G. MILLER of California, and Mr. TIAHRT.

H.R. 3085: Mr. MCGOVERN.

H.R. 3111: Mr. DEAL of Georgia, Mrs. CAPPS, Mr. VAN HOLLEN, Mr. PETERSON of Minnesota, Mr. MILLER of North Carolina, Mr. CUMMINGS, Mr. GREENWOOD, Mr. EMANUEL, Mr. DUNCAN, Mr. STENHOLM, and Mr. WELDON of Florida.

H.R. 3142: Mr. BEREUTER, Mr. STARK, and Mr. GILCHREST.

H.R. 3148: Mr. COOPER, Mr. RUPPERSBERGER, Ms. LINDA T. SANCHEZ of California, Mr. VAN HOLLEN, Mr. TIERNEY, Mr. KUCINICH, Mr. CLAY, Mr. LYNCH, Mrs. MALONEY, Ms. MCCOLLUM, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. CORRINE BROWN of Florida, Mr. SHIMKUS, Mr. WYNN, Mr. SCOTT of Georgia, Mrs. JONES of Ohio, Ms. KILPATRICK, Mr. THOMPSON of Mississippi, Mr. STARK, Mr. HILL, Mr. HONDA, Mr. EMANUEL, Ms. SCHAKOWSKY, Mr. CLYBURN, Mr. GUTIERREZ, Mr. WATT, Mr. ANDREWS, Mr. ROTHMAN, Mr. RUSH, Mr. GRIJALVA, Mr. EVANS, Mr. OWENS, Mr. BACA, Mr. ETHERIDGE, Mr. BOSWELL, Mrs. TAUSCHER, Ms. JACKSON-LEE of Texas, Mr. BROWN of Ohio, Mr. DINGELL, Mr. MCGOVERN, Mr. KENNEDY of Minnesota, Mr. RENZI, Ms. CARSON of Indiana, Mrs. BONO, Mr. PLATTS, Mr. FOSSELLA, and Mr. RAMSTAD.

H.R. 3193: Mr. LINDER, Mr. BOEHNER, Mr. SWEENEY, Ms. GRANGER, Mr. TIBERI, Mr. KANJORSKI, Mr. ROYCE, Mr. CRENSHAW, Mr. CARDOZA, and Mr. BOSWELL.

H.R. 3242: Mr. MILLER of North Carolina.

H.R. 3281: Ms. DEGETTE, Mr. HOLT, and Mr. STARK.

H.R. 3307: Mr. ISAKSON.

H.R. 3446: Mr. SPRATT.

H.R. 3595: Mr. GREEN of Texas.

H.R. 3602: Mr. PAYNE, Mr. OWENS, Mr. SERRANO, and Mr. REYES.

H.R. 3684: Mr. ALLEN.

H.R. 3707: Mr. TIERNEY, Mr. GEORGE MILLER of California, Mr. MEEK of Florida, Mr. NADLER, Mr. GRIJALVA, Mr. STUPAK, and Mr. SYNDER.

H.R. 3765: Mr. FARR, Mr. MCKEON, Mr. COX, Mr. LANTOS, Mr. GIBBONS, Mr. SAXTON, Mr. GARY G. MILLER of California, Mr. BONO, Mrs. NAPOLITANO, Mr. BACA, and Mr. SYNDER.

H.R. 3796: Mr. CARSON of Oklahoma.

H.R. 3810: Mr. HINCHEY.

H.R. 3820: Mr. SHERMAN.

H.R. 3847: Mr. ESHOO.

H.R. 3889: Mr. BARRETT of South Carolina.

H.R. 3927: Mr. KIRK.

H.R. 4026: Mr. ROGERS of Michigan, Mr. SANDLIN, Mr. FROST, Mr. ALEXANDER, and Mr. BOSWELL.

H.R. 4039: Mr. CALVERT.

H.R. 4067: Mr. MORAN of Virginia, Mrs. LOWEY, Mr. GUTIERREZ, and Mr. HOEFFEL.

H.R. 4082: Mr. SNYDER and Mr. STARK.

H.R. 4110: Mr. SHAYS, Mr. SHERMAN, Ms. HARRIS, Mr. OSE, Mr. BEREUTER, Mr. RANGEL, Mr. OWENS, and Mr. MCDERMOTT.

H.R. 4131: Mr. KING of Iowa.

H.R. 4154: Ms. BERKLEY.

H.R. 4169: Mr. WALSH.

H.R. 4177: Mr. MILLER of North Carolina.

H.R. 4188: Mr. SOUDER and Mr. RANGEL.

H.R. 4214: Mr. OWENS.

H.R. 4287: Ms. SCHAKOWSKY.

H.R. 4316: Mr. DAVIS of Tennessee, Ms. KAPTUR, Mr. GORDON, Mr. KUCINICH, Mr. HINCHEY, and Ms. BALDWIN.

H.R. 4334: Mr. WEXLER.

H.R. 4342: Mr. GREEN of Texas.

H.R. 4346: Mr. SNYDER.

H.R. 4347: Mr. CONYERS.

H.R. 4356: Mr. PAYNE.

H.R. 4358: Mr. MCGOVERN.

H.R. 4370: Mr. GARRETT of New Jersey and Mr. WEXLER.

H.R. 4377: Mr. BAIRD.

H.R. 4391: Mr. BILIRAKIS and Mr. FILNER.

H.R. 4399: Mr. ENGEL.

H.R. 4430: Mr. OTTER, Mr. EVERETT, Mr. THORNBERRY, and Mr. TURNER of Ohio.

H.R. 4440: Mr. GARRETT of New Jersey.

H.R. 4530: Mr. TANCREDO.

H.R. 4571: Mr. FEENEY.

H.R. 4575: Ms. WATSON and Mr. HONDA.

H.R. 4600: Mr. EHLERS.

H.J. Res. 28: Mr. GUTIERREZ and Mr. KENNEDY of Rhode Island.

H.J. Res. 29: Mr. GUTIERREZ and Mr. KENNEDY of Rhode Island.

H.J. Res. 30: Mr. GUTIERREZ and Mr. KENNEDY of Rhode Island.

H.J. Res. 72: Ms. SOLIS.

H. Con. Res. 319: Mr. WOLF, Mr. SMITH of Washington, Mr. WAXMAN, Mr. LEVIN, Mr. MARSHALL, Mr. FROST, Mr. GALLEGLY, and Mr. KIRK.

H. Con. Res. 425: Ms. MCCARTHY of Missouri.

H. Con. Res. 435: Mr. OWENS.

H. Con. Res. 442: Mr. MCDERMOTT and Mr. POMEROY.

H. Res. 466: Mr. CONYERS.

H. Res. 615: Mrs. MUSGRAVE, Mr. SCHIFF, Mr. FRANK of Massachusetts, Mr. KENNEDY of Minnesota, Mr. WILSON of South Carolina, Mr. SOUDER, Mr. BARRETT of South Carolina, Mr. HOEFFEL, Mrs. LOWEY, Mr. MATSUI, Ms. SCHAKOWSKY, Mr. GARRETT of New Jersey, Mr. FEENEY, Mr. WAXMAN, and Mr. LINCOLN DIAZ-BALART of Florida.

H. Res. 617: Ms. SCHAKOWSKY, Mr. SOUDER, Mr. GARRETT of New Jersey, Mr. WAXMAN, and Mrs. MUSGRAVE.

H. Res. 667: Mr. DEUTSCH.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3308: Mr. BEAUPREZ.

## AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 4567

OFFERED BY: MR. TANCREDO

AMENDMENT NO. 24: At the end of the bill (before the short title), insert the following: SECTION ____. None of the funds made available in this Act may be used to provide assistance to any State that has enacted a law, subsequent to the passage of this act, authorizing aliens who are not lawfully present in the United States to obtain a driver's license, or other comparable identification document, issued by the State.

H.R. 4567

OFFERED BY: MR. WELDON OF PENNSYLVANIA

AMENDMENT NO. 25: Page 2, line 16, insert after the dollar amount the following: ''(reduced by $50,000,000)''.

Page 25, line 24, insert after the dollar amount the following: ''(increased by $50,000,000, which increase is available for grants under section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a))''.

H.R. 4567

OFFERED BY: MR. WELDON OF PENNSYLVANIA

AMENDMENT NO. 26: Page 2, line 16, insert after the dollar amount the following: ''(reduced by $50,000,000)''.

Page 25, line 24, insert after the dollar amount the following: ''(increased by $50,000,000)''.

H.R. 4567

OFFERED BY: MR. KING OF IOWA

AMENDMENT NO. 27: At the end of the bill (before the short title) add the following:

SEC. ____. Appropriations made in this Act are hereby reduced in the amount of $896,000,000.

H.R. 4567

OFFERED BY: MR. WEINER

AMENDMENT NO. 28: At the end of the bill add the following:

SEC. ____. In making any threat assessment in conjunction with the Urban Area Security Initiative, the Department of Homeland Security shall weigh credible threat more heavily than population concentration, critical infrastructure, or any other consideration.

H.R. 4568

OFFERED BY: MR. WEINER

AMENDMENT NO. 21: At the end of the bill (before the short title), add the following new title:

TITLE V—ADDITIONAL GENERAL PROVISIONS

SEC. 501. Not later than July 31st, 2004, the Secretary of the Interior shall provide public access to the Statue of Liberty and its interior that is substantially equivalent to the access provided before September 11th, 2001.

United States
*of* America

# Congressional Record

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

*Vol. 150* WASHINGTON, THURSDAY, JUNE 17, 2004 *No. 84—Part II*

# *Senate*

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent the Senator from New York, Mrs. CLINTON, be recognized for 5 minutes to speak?

Mr. WARNER. We would have to lay this aside. We are waiting for the Chair to rule.

Mr. REID. It doesn't have to be laid aside.

Mr. WARNER. We wanted to clear the amendment.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I promise I will speak very briefly. We discussed this amendment at great length today. This is an amendment designed to take care of and put in a special employee cohort, workers in some very dirty nuclear bomb plants in Iowa and Missouri, back in the 1940s and 1950s. At the request of the managers, we added a number of conditions to it. We worked through the authorizations, and the funding of it is by authorization. I believe we have worked that out.

I think the amendment will be set aside. If anybody is really interested in it we will be happy to refer them to the CONGRESSIONAL RECORD, and at the appropriate time we will come back and restate why this is so important. It is relatively inexpensive—$180 million over 10 years. I hope my colleagues will be willing to accept it.

With that, I thank the managers and my cosponsors and I yield the floor.

Mr. WARNER. Mr. President, I want to say at this time, we started today's very productive session of amendments with Senator BOND, who has remained on the floor now I would say about 9 hours, to obtain what you have right now. Well done, sir.

Mr. BOND. I thank my colleague.

Mr. WARNER. If it is agreeable to my colleagues, I ask unanimous consent that amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3173, AS MODIFIED; 3202, 3440, AS MODIFIED; 3163, AS MODIFIED; 3199, AS MODIFIED; 3172, AS MODIFIED; 3245, AS MODIFIED; 3285, AS MODIFIED; 3254; 3413, AS MODIFIED; 3246; 3390, AS MODIFIED; 3273, AS MODIFIED; 3284, AS MODIFIED; 3434, AS MODIFIED; 3401; 3237, AS MODIFIED; 3279, AS MODIFIED

Mr. WARNER. I now send a package of amendments to the desk and ask they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, the amendments will be considered en bloc.

Is there debate?

Mr. LEVIN. These amendments have been cleared, I believe, on both sides.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments were agreed to, as follows:

AMENDMENT NO. 3173, AS MODIFIED

(Purpose: To provide for the supplemental subsistence allowance, imminent danger pay, family separation allowance, and certain federal assistance to be cumulative benefits; and to require a report on availability of social services to members of the Armed Forces)

On page 127, between the matter following line 5 and line 6, insert the following:

**SEC. 621. RELATIONSHIP BETWEEN ELIGIBILITY TO RECEIVE SUPPLEMENTAL SUBSISTENCE ALLOWANCE AND ELIGIBILITY TO RECEIVE IMMINENT DANGER PAY, FAMILY SEPARATION ALLOWANCE, AND CERTAIN FEDERAL ASSISTANCE.**

(a) ENTITLEMENT NOT AFFECTED BY RECEIPT OF IMMINENT DANGER PAY AND FAMILY SEPARATION ALLOWANCE.—Subsection (b)(2) of section 402a of title 37, United States Code, is amended by striking subparagraph (A) and inserting the following:

''(A) shall not take into consideration—

''(i) the amount of the supplemental subsistence allowance that is payable under this section;

''(ii) the amount of special pay (if any) that is payable under section 310 of this section, relating to duty subject to hostile fire or imminent danger; or

''(iii) the amount of family separation allowance (if any) that is payable under section 427 of this title; but''.

(b) ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—Section 402a of such title is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection (g):

''(g) ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—(1)(A) A child or spouse of a member of the armed forces receiving the supplemental subsistence allowance under this section who, except for the receipt of such allowance, would otherwise be eligible to receive a benefit described in subparagraph (B) shall be considered to be eligible for that benefit.

''(B) The benefits referred to in subparagraph (A) are as follows:

''(i) Assistance provided under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

''(ii) Assistance provided under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

''(iii) A service under the Head Start Act (42 U.S.C. 9831 et seq.).

''(iv) Assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

''(2) A household that includes a member of the armed forces receiving the supplemental subsistence allowance under this section and, except for the receipt of such allowance, would otherwise be eligible to receive a benefit under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be eligible for that benefit.''.

(c) REQUIREMENT FOR REPORT.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the committees of Congress named in paragraph (2) a report on the accessibility of social services to members of the Armed Forces and their families. The report shall include the following matters:

(A) The social services for which members of the Armed Forces and their families are eligible under social services programs generally available to citizens and other nationals of the United States.

(B) The extent to which members of the Armed Forces and their families utilize the social services for which they are eligible under the programs identified under subparagraph (A).

(C) The efforts made by each of the military departments—

(i) to ensure that members of the Armed Forces and their families are aware of the social services for which they are eligible under the programs identified under subparagraph (A); and

(ii) to assist members and their families in applying for and obtaining such social services.

(2) The committees of Congress referred to in paragraph (1) are as follows:

(A) The Committee on Armed Services and the Committee on Health, Education, Labor, and Pensions of the Senate.

(B) The Committee on Armed Services of the House of Representatives.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on October 1, 2004.

(2) Subsection (c) shall take effect on the date of the enactment of this Act.

AMENDMENT NO. 3202

(Purpose: To provide relief to mobilized military reservists from certain Federal agricultural loan obligations)

On page 131, between lines 17 and 18, insert the following:

**SEC. 653. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN FEDERAL AGRICULTURAL LOAN OBLIGATIONS.**

The Consolidated Farm and Rural Development Act is amended by inserting after section 331F (7 U.S.C. 1981f) the following:

**"SEC. 332. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN AGRICULTURAL LOAN OBLIGATIONS.**

''(a) DEFINITION OF MOBILIZED MILITARY RESERVIST.—In this section, the term 'mobilized military reservist' means an individual who—

''(1) is on active duty under section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12406, or chapter 15 of title 10, United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress, regardless of the location at which the active duty service is performed; or

''(2) in the case of a member of the National Guard, is on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) 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) FORGIVENESS OF INTEREST PAYMENTS DUE WHILE BORROWER IS A MOBILIZED MILITARY RESERVIST.—Any requirement that a borrower of a direct loan made under this title make any interest payment on the loan that would otherwise be required to be made while the borrower is a mobilized military reservist is rescinded.

''(c) DEFERRAL OF PRINCIPAL PAYMENTS DUE WHILE OR AFTER BORROWER IS A MOBILIZED MILITARY RESERVIST.—The due date of any payment of principal on a direct loan made to a borrower under this title that would otherwise be required to be made while or after the borrower is a mobilized military reservist is deferred for a period equal in length to the period for which the borrower is a mobilized military reservist.

''(d) NONACCRUAL OF INTEREST.—Interest on a direct loan made to a borrower described in this section shall not accrue during the period the borrower is a mobilized military reservist.

''(e) BORROWER NOT CONSIDERED TO BE DELINQUENT OR RECEIVING DEBT FORGIVENESS.—Notwithstanding section 373 or any other provision of this title, a borrower who receives assistance under this section shall not, as a result of the assistance, be considered to be delinquent or receiving debt forgiveness for purposes of receiving a direct or guaranteed loan under this title.''.

AMENDMENT NO. 3440, AS MODIFIED

(Purpose: To promote a thorough investigation of the United Nations Oil-for-Food Program)

On page 272, after the matter following line 18, insert the following:

**SEC. 1055. UNITED NATIONS OIL-FOR-FOOD PROGRAM**

(a) RESPONSIBILITY OF INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE FOR SECURITY OF DOCUMENTS.—(1) The Inspector General of the Department of Defense, in cooperation with the Director of the Defense Contract Audit Agency and the Director of the Defense Contract Management Agency, shall ensure, not later than June 30, 2004, the security of all documents relevant to the United Nations Oil-for-Food Program that are in the possession or control of the Coalition Provisional Authority.

(2) The Inspector General shall—

(A) maintain copies of all such documents in the United States at the Department of Defense; and

(B) not later than August 31, 2004, deliver a complete set of all such documents to the Comptroller General of the United States.

(b) COOPERATION IN INVESTIGATIONS.—Each head of an Executive agency, including the Department of State, the Department of Defense, the Department of the Treasury, and the Central Intelligence Agency, and the Administrator of the Coalition Provisional Authority shall, upon a request in connection with an investigation of the United Nations Oil-for-Food Program made by the chairman of the Committee on Foreign Relations, the Committee on Armed Services, the Committee on the Judiciary, the Committee on Governmental Affairs, the Select Committee on Intelligence, the Permanent Subcommittee on Investigations, or other committee of the Senate with relevant jurisdiction, promptly provide to such chairman—

(1) access to any information and documents described in subsections (a) or (c) that are under the control of such agency and responsive to the request; and

(2) assistance relating to access to and utilization of such information and documents.

(c) INFORMATION FROM THE UNITED NATIONS.—(1) The Secretary of State shall use the voice and vote of the United States in the United Nations to urge the Secretary-General of the United Nations to provide the United States copies of all audits and core documents related to the United Nations Oil-for-Food Program.

(2) It is the sense of Congress that, pursuant to section 941(b)(6) of the United Nations Reform Act of 1999 (title IX of division A of H.R. 3427 of the 106th Congress, as enacted into law by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A-480), the Comptroller General of the United States should have full and complete access to financial data relating to the United Nations, including information related to the financial transactions, organization, and activities of the United Nations Oil-for-Food Program.

(3) The Secretary of State shall facilitate the providing of access to the Comptroller General to the financial data described in paragraph (2).

(d) REVIEW OF OIL-FOR-FOOD PROGRAM BY COMPTROLLER GENERAL.—(1) The Comptroller General of the United States shall conduct a review of United States oversight of the United Nations Oil-for-Food Program. The review—

(A) in accordance with Generally Accepted Government Auditing Standards, should not interfere with any ongoing criminal investigations or inquiries related to the Oil-for-Food program; and

(B) may take into account the results of any investigations or inquiries related to the Oil-for-Food program.

(2) The head of each Executive agency shall fully cooperate with the review under this subsection.

(e) EXECUTIVE AGENCY DEFINED.—In this section, the term ''Executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

AMENDMENT NO. 3163, AS MODIFIED

(Purpose: To provide for improved medical readiness of the members of the Armed Forces, and for other purposes)

On page 296, between lines 14 and 15, insert the following:

**TITLE XIII—MEDICAL READINESS TRACKING AND HEALTH SURVEILLANCE**

**SEC. 1301. ANNUAL MEDICAL READINESS PLAN AND JOINT MEDICAL READINESS OVERSIGHT COMMITTEE.**

(a) REQUIREMENT FOR PLAN.—The Secretary of Defense shall develop a comprehensive plan to improve medical readiness, and Department of Defense tracking of the health status, of members of the Armed Forces throughout their service in the Armed Forces, and to strengthen medical readiness and tracking before, during, and after deployment of the personnel overseas. The matters covered by the comprehensive plan shall include all elements that are described in this title and the amendments made by this title and shall comply with requirements in law.

(b) JOINT MEDICAL READINESS OVERSIGHT COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary of Defense shall establish a Joint Medical Readiness Oversight Committee.

(2) COMPOSITION.—The members of the Committee are as follows:

(A) The Under Secretary of Defense for Personnel and Readiness, who shall chair the Committee.

(B) The Assistant Secretary of Defense for Health Affairs.

(C) The Assistant Secretary of Defense for Reserve Affairs.

(D) The Surgeons General of the Armed Forces.

(E) The Assistant Secretary of the Army for Manpower and Reserve Affairs.

(F) The Assistant Secretary of the Navy for Manpower and Reserve Affairs.

(G) The Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations, and Environment.

(H) The Chief of the National Guard Bureau.

(I) The Chief of Army Reserve.

(J) The Chief of Naval Reserve.

(K) The Chief of Air Force Reserve.

(L) The Commander, Marine Corps Reserve.

(M) The Director of the Defense Manpower Data Center.

(N) A representative of the Department of Veterans Affairs designated by the Secretary of Veterans Affairs.

(O) Representatives of veterans and military health advocacy organizations appointed to the Committee by the Secretary of Defense.

(P) An individual from civilian life who is recognized as an expert on military health care treatment, including research relating to such treatment.

(3) DUTIES.—The duties of the Committee are as follows:

(A) To advise the Secretary of Defense on the medical readiness and health status of the members of the active and reserve components of the Armed Forces.

(B) To advise the Secretary of Defense on the compliance of the Armed Forces with the

medical readiness tracking and health surveillance policies of the Department of Defense.

(C) To oversee the development and implementation of the comprehensive plan required by subsection (a) and the actions required by this title and the amendments made by this title, including with respect to matters relating to—

(i) the health status of the members of the reserve components of the Armed Forces;

(ii) accountability for medical readiness;

(iii) medical tracking and health surveillance;

(iv) declassification of information on environmental hazards;

(v) postdeployment health care for members of the Armed Forces; and

(vi) compliance with Department of Defense and other applicable policies on blood serum repositories.

(D) To ensure unity and integration of efforts across functional and organizational lines within the Department of Defense with regard to medical readiness tracking and health status surveillance of members of the Armed Forces.

(E) To establish and monitor compliance with the medical readiness standards that are applicable to members and those that are applicable to units.

(F) To improve continuity of care in coordination with the Secretary of Veterans Affairs, for members of the Armed Forces separating from active service with service-connected medical conditions.

(G) To prepare and submit to the Secretary of Defense and to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 1 of each year, a report on—

(i) the health status and medical readiness of the members of the Armed Forces, including the members of reserve components, based on the comprehensive plan required under subsection (a) and the actions required by this title and the amendments made by this title; and

(ii) compliance with Department of Defense policies on medical readiness tracking and health surveillance.

(4) FIRST MEETING.—The first meeting of the Committee shall be held not later than 90 days after the date of the enactment of this Act.

**SEC. 1302. MEDICAL READINESS OF RESERVES.**

(a) COMPTROLLER GENERAL STUDY OF HEALTH OF RESERVES ORDERED TO ACTIVE DUTY FOR OPERATIONS ENDURING FREEDOM AND IRAQI FREEDOM.—

(1) REQUIREMENT FOR STUDY.—The Comptroller General of the United States shall carry out a study of the health of the members of the reserve components of the Armed Forces who have been called or ordered to active duty for a period of more than 30 days in support of Operation Enduring Freedom and Operation Iraqi Freedom. The Comptroller General shall commence the study not later than 180 days after the date of the enactment of this Act.

(2) PURPOSES.—The purposes of the study under this subsection are as follows:

(A) To review the health status and medical fitness of the activated Reserves when they were called or ordered to active duty.

(B) To review the effects, if any, on logistics planning and the deployment schedules for the operations referred to in paragraph (1) that resulted from deficiencies in the health or medical fitness of activated Reserves.

(C) To review compliance of military personnel with Department of Defense policies on medical and physical fitness examinations and assessments that are applicable to the reserve components of the Armed Forces.

(3) REPORT.—The Comptroller General shall, not later than one year after the date of the enactment of this Act, submit a report on the results of the study under this subsection to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following matters:

(A) With respect to the matters reviewed under subparagraph (A) of paragraph (2)—

(i) the percentage of activated Reserves who were determined to be medically unfit for deployment, together with an analysis of the reasons why the member was unfit, including medical illnesses or conditions most commonly found among the activated Reserves that were grounds for determinations of medical unfitness for deployment; and

(ii) the percentage of the activated Reserves who, before being deployed, needed medical care for health conditions identified when called or ordered to active duty, together with an analysis of the types of care that were provided for such conditions and the reasons why such care was necessary.

(B) With respect to the matters reviewed under subparagraph (B) of paragraph (2)—

(i) the delays and other disruptions in deployment schedules that resulted from deficiencies in the health status or medical fitness of activated Reserves; and

(ii) an analysis of the extent to which it was necessary to merge units or otherwise alter the composition of units, and the extent to which it was necessary to merge or otherwise alter objectives, in order to compensate for limitations on the deployability of activated Reserves resulting from deficiencies in the health status or medical fitness of activated Reserves.

(C) With respect to the matters reviewed under subparagraph (C) of paragraph (2), an assessment of the extent of the compliance of reserve component personnel with Department of Defense policies on routine medical and physical fitness examinations that are applicable to the reserve components of the Armed Forces.

(D) An analysis of the extent to which the medical care, if any, provided to activated Reserves in each theater of operations referred to in paragraph (1) related to pre-existing conditions that were not adequately addressed before the deployment of such personnel to the theater.

(4) DEFINITIONS.—In this subsection:

(A) The term ''activated Reserves'' means the members of the Armed Forces referred to in paragraph (1).

(B) The term ''active duty for a period of more than 30 days'' has the meaning given such term in section 101(d) of title 10, United States Code.

(C) The term ''health condition'' includes a mental health condition and a dental condition.

(D) The term ''reserve components of the Armed Forces'' means the reserve components listed in section 10101 of title 10, United States Code.

(b) ACCOUNTABILITY FOR INDIVIDUAL AND UNIT MEDICAL READINESS.—

(1) POLICY.—The Secretary of Defense shall issue a policy to ensure that individual members and commanders of reserve component units fulfill their responsibilities for medical and dental readiness of members of the units on the basis of—

(A) frequent periodic health assessment of members (not less frequently than once every two years) using the predeployment assessment procedure required under section 1074f of title 10, United States Code, as the minimum standard of medical readiness; and

(B) any other information on the health status of the members that is available to the commanders.

(2) REVIEW AND FOLLOWUP CARE.—The regulations under this subsection shall provide for review of the health assessments under paragraph (1) by a medical professional and for any followup care and treatment that is needed for medical or dental readiness.

(3) MODIFICATION OF PREDEPLOYMENT HEALTH ASSESSMENT SURVEY.—In meeting the policy under paragraph (1), the Secretary shall—

(A) to the extent practicable, modify the predeployment health assessment survey to bring such survey into conformity with the detailed postdeployment health assessment survey in use as of October 1, 2004; and

(B) ensure the use of the predeployment health assessment survey, as so modified, for predeployment health assessments after that date.

(c) UNIFORM POLICY ON DEFERRAL OF MEDICAL TREATMENT PENDING DEPLOYMENT TO THEATERS OF OPERATIONS.—

(1) REQUIREMENT FOR POLICY.—The Secretary of Defense shall prescribe, for uniform applicability throughout the Armed Forces, a policy on deferral of medical treatment of members pending deployment.

(2) CONTENT.—The policy prescribed under paragraph (1) shall specify the following matters:

(A) The circumstances under which treatment for medical conditions may be deferred to be provided within a theater of operations in order to prevent delay or other disruption of a deployment to that theater.

(B) The circumstances under which medical conditions are to be treated before deployment to that theater.

**SEC. 1303. BASELINE HEALTH DATA COLLECTION PROGRAM.**

(a) REQUIREMENT FOR PROGRAM.—

(1) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1092 the following new section:

**''§ 1092a. Persons entering the armed forces: baseline health data**

''(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program—

''(1) to collect baseline health data from all persons entering the armed forces;

''(2) to provide for computerized compilation and maintenance of the baseline health data; and

''(3) to analyze the data.

''(b) PURPOSES.—The program under this section shall be designed to achieve the following purposes:

''(1) To facilitate understanding of how exposures related to service in the armed forces affect health.

''(2) To facilitate development of early intervention and prevention programs to protect health and readiness.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1092 the following new item:

''1092a. Persons entering the armed forces: baseline health data.''.

(3) TIME FOR IMPLEMENTATION.—The Secretary of Defense shall implement the program required under section 1092a of title 10, United States Code (as added by paragraph (1)), not later than two years after the date of the enactment of this Act.

(b) INTERIM STANDARDS FOR BLOOD SAMPLING.—The Secretary of Defense shall require under the medical tracking system administered under section 1074f of title 10, United States Code, that—

(1) the blood samples necessary for the predeployment medical examination of a member of the Armed Forces required under subsection (b) of such section be drawn not earlier than 60 days before the date of the deployment; and

(2) the blood samples necessary for the postdeployment medical examination of a

member of the Armed Forces required under such subsection be drawn not later than 30 days after the date on which the deployment ends.

**SEC. 1304. MEDICAL CARE AND TRACKING AND HEALTH SURVEILLANCE IN THE THEATER OF OPERATIONS.**

(a) RECORDKEEPING POLICY.—The Secretary of Defense shall prescribe a policy that requires the records of all medical care provided to a member of the Armed Forces in a theater of operations to be maintained as part of a complete health record for the member.

(b) IN-THEATER MEDICAL TRACKING AND HEALTH SURVEILLANCE.—

(1) REQUIREMENT FOR EVALUATION.—The Secretary of Defense shall evaluate the system for the medical tracking and health surveillance of members of the Armed Forces in theaters of operations and take such actions as may be necessary to improve the medical tracking and health surveillance.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit a report on the actions taken under paragraph (1) to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following matters:

(A) An analysis of the strengths and weaknesses of the medical tracking system administered under section 1074f of title 10, United States Code.

(B) An analysis of the efficacy of health surveillance systems as a means of detecting—

(i) any health problems (including mental health conditions) of members of the Armed Forces contemporaneous with the performance of the assessment under the system; and

(ii) exposures of the assessed members to environmental hazards that potentially lead to future health problems.

(C) An analysis of the strengths and weaknesses of such medical tracking and surveillance systems as a means for supporting future research on health issues.

(D) Recommended changes to such medical tracking and health surveillance systems.

(E) A summary of scientific literature on blood sampling procedures used for detecting and identifying exposures to environmental hazards.

(F) An assessment of whether there is a need for changes to regulations and standards for drawing blood samples for effective tracking and health surveillance of the medical conditions of personnel before deployment, upon the end of a deployment, and for a followup period of appropriate length.

(c) PLAN TO OBTAIN HEALTH CARE RECORDS FROM ALLIES.—The Secretary of Defense shall develop a plan for obtaining all records of medical treatment provided to members of the Armed Forces by allies of the United States in Operation Enduring Freedom and Operation Iraqi Freedom. The plan shall specify the actions that are to be taken to obtain all such records.

(d) POLICY ON IN-THEATER PERSONNEL LOCATOR DATA.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall prescribe a Department of Defense policy on the collection and dissemination of in-theater individual personnel location data.

**SEC. 1305. DECLASSIFICATION OF INFORMATION ON EXPOSURES TO ENVIRONMENTAL HAZARDS.**

(a) REQUIREMENT FOR REVIEW.—The Secretary of Defense shall review and, as determined appropriate, revise the classification policies of the Department of Defense with a view to facilitating the declassification of data that is potentially useful for the monitoring and assessment of the health of members of the Armed Forces who have been exposed to environmental hazards during deployments overseas, including the following data:

(1) In-theater injury rates.

(2) Data derived from environmental surveillance.

(3) Health tracking and surveillance data.

(b) CONSULTATION WITH COMMANDERS OF THEATER COMBATANT COMMANDS.—The Secretary shall, to the extent that the Secretary considers appropriate, consult with the senior commanders of the in-theater forces of the combatant commands in carrying out the review and revising policies under subsection (a).

**SEC. 1306. ENVIRONMENTAL HAZARDS.**

(a) REPORT ON TRAINING OF FIELD MEDICAL PERSONNEL.—

(1) REQUIREMENT FOR REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the training on environmental hazards that is provided by the Armed Forces to medical personnel of the Armed Forces who are deployable to the field in direct support of combat personnel.

(2) CONTENT.—The report under paragraph (1) shall include the following:

(A) An assessment of the adequacy of the training regarding—

(i) the identification of common environmental hazards and exposures to such hazards; and

(ii) the prevention and treatment of adverse health effects of such exposures.

(B) A discussion of the actions taken and to be taken to improve such training.

(c) REPORT ON RESPONSES TO HEALTH CONCERNS OF MEMBERS.—

(1) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary of Defense for Health Affairs shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report on Department of Defense responses to concerns expressed by members of the Armed Forces during post-deployment health assessments about possibilities that the members were exposed to environmental hazards deleterious to the members' health during a deployment overseas.

(2) CONTENT.—The report regarding health concerns submitted under paragraph (1) shall include the following:

(A) A discussion of the actions taken by Department of Defense officials to investigate the circumstances underlying such concerns in order to determine the validity of the concerns.

(B) A discussion of the actions taken by Department of Defense officials to evaluate or treat members and former members of the Armed Forces who are confirmed to have been exposed to environmental hazards deleterious to their health during deployments of the Armed Forces.

**SEC. 1307. POST-DEPLOYMENT MEDICAL CARE RESPONSIBILITIES OF INSTALLATION COMMANDERS.**

(a) REQUIREMENT FOR REGULATIONS.—The Secretary of Defense shall prescribe a policy that requires the commander of each military installation at which members of the Armed Forces are to be processed upon redeployment from an overseas deployment—

(1) to identify and analyze the anticipated health care needs of such members before the arrival of such members at that installation; and

(2) to report such needs to the Secretary.

(b) HEALTH CARE TO MEET NEEDS.—The policy under this section shall include procedures for the commander of each military installation described in subsection (a) to meet the anticipated health care needs that are identified by the commander in the performance of duties under the regulations, including the following:

(1) Arrangements for health care provided by the Secretary of Veterans Affairs.

(2) Procurement of services from local health care providers.

(3) Temporary employment of health care personnel to provide services at such installation.

**SEC. 1308. FULL IMPLEMENTATION OF MEDICAL READINESS TRACKING AND HEALTH SURVEILLANCE PROGRAM AND FORCE HEALTH PROTECTION AND READINESS PROGRAM.**

(a) IMPLEMENTATION AT ALL LEVELS.—The Secretary of Defense, in conjunction with the Secretaries of the military departments, shall take such actions as are necessary to ensure that the Army, Navy, Air Force, and Marine Corps fully implement at all levels—

(1) the Medical Readiness Tracking and Health Surveillance Program under this title and the amendments made by this title; and

(2) the Force Health Protection and Readiness Program of the Department of Defense (relating to the prevention of injury and illness and the reduction of disease and noncombat injury threats).

(b) ACTION OFFICIAL.—The Secretary of Defense may act through the Under Secretary of Defense for Personnel and Readiness in carrying out subsection (a).

**SEC. 1309. OTHER MATTERS.**

(a) ANNUAL REPORTS.—

(1) REQUIREMENT FOR REPORTS.—

(A) Chapter 55 of title 10, United States Code, is amended by inserting after section 1073a the following new section:

**"§ 1073b. Recurring reports**

''(a) ANNUAL REPORT ON HEALTH PROTECTION QUALITY.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives each year a report on the Force Health Protection Quality Assurance Program of the Department of Defense. The report shall include the following matters:

''(A) The results of an audit of the extent to which the serum samples required to be obtained from members of the armed forces before and after a deployment are stored in the serum repository of the Department of Defense.

''(B) The results of an audit of the extent to which the health assessments required for members of the armed forces before and after a deployment are being maintained in the electronic database of the Defense Medical Surveillance System.

''(C) An analysis of the actions taken by the Department of Defense personnel to respond to health concerns expressed by members of the armed forces upon return from a deployment.

''(D) An analysis of the actions taken by the Secretary to evaluate or treat members and former members of the armed forces who are confirmed to have been exposed to occupational or environmental hazards deleterious to their health during a deployment.

''(2) The Secretary of Defense shall act through the Assistant Secretary of Defense for Health Affairs in carrying out this subsection.

''(b) ANNUAL REPORT ON RECORDING OF HEALTH ASSESSMENT DATA IN MILITARY PERSONNEL RECORDS.—The Secretary of Defense shall issue each year a report on the compliance by the military departments with applicable policies on the recording of health assessment data in military personnel records. The report shall include a discussion of the extent to which immunization status and

predeployment and postdeployment health care data is being recorded in such records.''.

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1073a the following new item:

''1073b. Recurring reports.''.

(2) INITIAL REPORT.—The first report under section 1073b(a) of title 10, United States Code (as added by paragraph (1)), shall be completed not later than 180 days after the date of the enactment of this Act.

(b) INTERNET ACCESSIBILITY OF HEALTH ASSESSMENT INFORMATION FOR MEMBERS OF THE ARMED FORCES.—Not later than one year after the date of the enactment of this Act, the Chief Information Officer of each military department shall ensure that the online portal website of that military department includes the following information relating to health assessments:

(1) Information on the Department of Defense policies regarding predeployment and postdeployment health assessments, including policies on the following matters:

(A) Health surveys.

(B) Physical examinations.

(C) Collection of blood samples and other tissue samples.

(2) Procedural information on compliance with such policies, including the following information:

(A) Information for determining whether a member is in compliance.

(B) Information on how to comply.

(3) Health assessment surveys that are either—

(A) web-based; or

(B) accessible (with instructions) in printer-ready form by download.

**SEC. 1310. USE OF CIVILIAN EXPERTS AS CONSULTANTS.**

Nothing in this title or an amendment made by this title shall be construed to limit the authority of the Secretary of Defense to procure the services of experts outside the Federal Government for performing any function to comply with requirements for readiness tracking and health surveillance of members of the Armed Forces that are applicable to the Department of Defense.

AMENDMENT NO. 3199, AS MODIFIED

(Purpose: To authorize United Service Organizations, Incorporated (USO) to procure supplies and services from the General Services Administration supplies and services on the Federal Supply Schedule)

On page 195, between lines 10 and 11, insert the following:

**SEC. 868. AVAILABILITY OF FEDERAL SUPPLY SCHEDULE SUPPLIES AND SERVICES TO UNITED SERVICE ORGANIZATIONS, INCORPORATED.**

Section 220107 of title 36, United States Code, is amended by inserting after ''Department of Defense'' the following: '', including access to General Services Administration supplies and services through the Federal Supply Schedule of the General Services Administration,''

AMENDMENT NO. 3172, AS MODIFIED

(Purpose: To express the sense of the Senate that perchlorate contamination of ground and surface water is becoming increasingly problematic to the public health of people in the United States)

On page 48, between lines 7 and 8, insert the following:

**SEC. 326. SENSE OF SENATE ON PERCHLORATE CONTAMINATION OF GROUND AND SURFACE WATER.**

(a) FINDINGS.—The Senate makes the following findings:

(1) Because finite water sources in the United States are stretched by regional drought conditions and increasing demand for water supplies, there is increased need for safe and dependable supplies of fresh water for drinking and use for agricultural purposes.

(2) Perchlorate, a naturally occurring and manmade compound with medical, commercial, and national defense applications, which has been used primarily in military munitions and rocket fuels, has been detected in fresh water sources intended for use as drinking water and water necessary for the production of agricultural commodities.

(3) If ingested in sufficient concentration and in adequate duration, perchlorate may interfere with thyroid metabolism, and this effect may impair the normal development of the brain in fetuses and newborns.

(4) The Federal Government has not yet established a drinking water standard for perchlorate.

(5) The National Academy of Sciences is conducting an assessment of the state of the science regarding the effects on human health of perchlorate ingestion that will aid in understanding the effect of perchlorate exposure on sensitive populations.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) perchlorate has been identified as a contaminant of drinking water sources or in the environment in 34 States and has been used or manufactured in 44 States;

(2) perchlorate exposure at or above a certain level may adversely affect public health, particularly the health of vulnerable and sensitive populations; and

(3) the Department of Defense should—

(A) work to develop a national plan to remediate perchlorate contamination of the environment resulting from Department's activities to ensure the Department is prepared to respond quickly and appropriately once a drinking water standard is established;

(B) in cases in which the Department is already remediating perchlorate contamination, continue that remediation;

(C) prior to the development of a drinking water standard for perchlorate, develop a plan to remediate perchlorate contamination in cases in which such contamination from the Department's activities is present in ground or surface water at levels that pose a hazard to human health; and

(D) continue the process of evaluating and prioritizing sites without waiting for the development of a Federal standard.

AMENDMENT NO. 3245, AS MODIFIED

(Purpose: To require two reports on operation of the Federal Voting Assistance Program and the military postal system together with certain actions to improve the military postal system)

On page 247, between lines 13 and 14, insert the following:

**SEC. 1022. OPERATION OF THE FEDERAL VOTING ASSISTANCE PROGRAM AND THE MILITARY POSTAL SYSTEM.**

(a) REQUIREMENT FOR REPORTS.—(1) The Secretary of Defense shall submit to Congress two reports on the actions that the Secretary has taken to ensure that—

(A) the Federal Voting Assistance Program functions effectively to support absentee voting by members of the Armed Forces deployed outside the United States in support of Operation Iraqi Freedom, Operation Enduring Freedom, and all other contingency operations; and

(B) the military postal system functions effectively to support the morale of the personnel described in subparagraph (A) and absentee voting by such members.

(2)(A) The first report under paragraph (1) shall be submitted not later than 60 days after the date of the enactment of this Act.

(B) The second report under paragraph (1) shall be submitted not later than 60 days after the date on which the first report is submitted under that paragraph.

(3) In this subsection, the term ''Federal Voting Assistance Program'' means the program referred to in section 1566(b)(1) of title 10, United States Code.

(b) IMPLEMENTATION OF RECOMMENDED POSTAL SYSTEM IMPROVEMENTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth—

(1) the actions taken to implement the recommendations of the Military Postal Service Agency Task Force, dated 28 August 2000; and

(2) in the case of each such recommendation not implemented or not fully implemented as of the date of report, the reasons for not implementing or not fully implementing such recommendation, as the case may be.

AMENDMENT NO. 3285, AS MODIFIED

(Purpose: To amend title 32, United States Code, to provide for the use of members of the National Guard on full-time National Guard duty for carrying out homeland security activities in support of Federal agencies)

On page 208, between lines 16 and 17, insert the following:

**SEC. 906. HOMELAND SECURITY ACTIVITIES OF THE NATIONAL GUARD.**

(a) AUTHORITY.—Chapter 1 of title 32, United States Code, is amended by adding at the end the following new section:

**''§ 116. Homeland security activities**

''(a) USE OF PERSONNEL PERFORMING FULL-TIME NATIONAL GUARD DUTY.—The Governor of a State may, upon the request by the head of a Federal agency and with the concurrence of the Secretary of Defense, order any personnel of the National Guard of the State to perform full-time National Guard duty under section 502(f) of this title for the purpose of carrying out homeland security activities, as described in subsection (b).

''(b) PURPOSE AND DURATION.—(1) The purpose for the use of personnel of the National Guard of a State under this section is to temporarily provide trained and disciplined personnel to a Federal agency to assist that agency in carrying out homeland security activities.

''(2) The duration of the use of the National Guard of a State under this section shall be limited to a period of 180 days. The Governor of the State may, with the concurrence of the Secretary of Defense, extend the period one time for an additional 90 days to meet extraordinary circumstances.

''(c) RELATIONSHIP TO REQUIRED TRAINING.— A member of the National Guard serving on full-time National Guard duty under orders authorized under subsection (a) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that subsection. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out homeland security activities. The member is not entitled to additional pay, allowances, or other benefits for participation in training required under section 502(a)(1) of this title.

''(d) READINESS.—To ensure that the use of units and personnel of the National Guard of a State for homeland security activities does not degrade the training and readiness of such units and personnel, the following requirements shall apply in determining the homeland security activities that units and

personnel of the National Guard of a State may perform:

''(1) The performance of the activities may not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.

''(2) National Guard personnel will not degrade their military skills as a result of performing the activities.

''(3) The performance of the activities will not result in a significant increase in the cost of training.

''(4) In the case of homeland security performed by a unit organized to serve as a unit, the activities will support valid unit training requirements.

''(e) PAYMENT OF COSTS.—(1) The Secretary of Defense shall provide funds to the Governor of a State to pay costs of the use of personnel of the National Guard of the State for the performance of homeland security activities under this section. Such funds shall be used for the following costs:

''(A) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses (including all associated training expenses, as determined by the Secretary), as authorized by State law, of personnel of the National Guard of that State used, while not in Federal service, for the purpose of homeland security activities.

''(B) The operation and maintenance of the equipment and facilities of the National Guard of that State used for the purpose of homeland security activities.

''(2) The Secretary of Defense shall require the head of an agency receiving support from the National Guard of a State in the performance of homeland security activities under this section to reimburse the Department of Defense for the payments made to the State for such support under paragraph (1).

''(f) MEMORANDUM OF AGREEMENT.—The Secretary of Defense and the Governor of a State shall enter into a memorandum of agreement with the head of each Federal agency to which the personnel of the National Guard of that State are to provide support in the performance of homeland security activities under this section. The memorandum of agreement shall—

''(1) specify how personnel of the National Guard are to be used in homeland security activities;

''(2) include a certification by the Adjutant General of the State that those activities are to be performed at a time when the personnel are not in Federal service;

''(3) include a certification by the Adjutant General of the State that—

''(A) participation by National Guard personnel in those activities is service in addition to training required under section 502 of this title; and

''(B) the requirements of subsection (d) of this section will be satisfied;

''(4) include a certification by the Attorney General of the State (or, in the case of a State with no position of Attorney General, a civilian official of the State equivalent to a State attorney general), that the use of the National Guard of the State for the activities provided for under the memorandum of agreement is authorized by, and is consistent with, State law;

''(5) include a certification by the Governor of the State or a civilian official of the State designated by the Governor that the activities provided for under the memorandum of agreement serve a State security purpose; and

''(6) include a certification by the head of the Federal agency that the agency will have a plan to ensure that the agency's requirement for National Guard support ends not later than 179 days after the commencement of the support.

''(g) EXCLUSION FROM END-STRENGTH COMPUTATION.—Notwithstanding any other provision of law, members of the National Guard on active duty or full-time National Guard duty for the purposes of administering (or during fiscal year 2003 otherwise implementing) this section shall not be counted toward the annual end strength authorized for Reserves on active duty in support of the reserve components of the armed forces or toward the strengths authorized in sections 12011 and 12012 of title 10.

''(h) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress an annual report regarding any assistance provided and activities carried out under this section during the preceding fiscal year. The report shall include the following:

''(1) The number of members of the National Guard excluded under subsection (g) from the computation of end strengths.

''(2) A description of the homeland security activities conducted with funds provided under this section.

''(3) An accounting of the amount of funds provided to each State.

''(4) A description of the effect on military training and readiness of using units and personnel of the National Guard to perform homeland security activities under this section.

''(i) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform functions authorized to be performed by the National Guard by the laws of the State concerned.

''(j) DEFINITIONS.—For purposes of this section:

''(1) The term 'Governor of a State' means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

''(2) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such section is amended by adding at the end the following new item:

''116. Homeland security activities.''.

AMENDMENT NO. 3254

(Purpose: To repeal a requirement for an officer to retire upon termination of service as Superintendent of the Air Force Academy)

On page 84, between the matter following line 13 and line 14, insert the following:

**SEC. 535. REPEAL OF REQUIREMENT FOR OFFICER TO RETIRE UPON TERMINATION OF SERVICE AS SUPERINTENDENT OF THE AIR FORCE ACADEMY.**

(a) REPEALS.—Sections 8921 and 9333a of title 10, United States Code, are repealed.

(b) CLERICAL AMENDMENTS.—Subtitle D of title 10, United States Code, is amended—

(1) in the table of sections at the beginning of chapter 867, by striking the item relating to section 8921; and

(2) in the table of sections at the beginning of chapter 903, by striking the item relating to section 9333a.

AMENDMENT NO. 3413, AS MODIFIED

(Purpose: To amend the Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Pilot Program)

On page 285, line 1, insert '', the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives'' after ''Representatives''.

On page 285, between lines 9 and 10, insert the following:

(g) CRITICAL HIRING NEED.—Section 3304(a)(3) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

''(B)(i) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need; or

''(ii) the candidate is a participant in the Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Pilot Program under section 1101 of the National Defense Authorization Act for Fiscal Year 2005.''.

On page 285, line 9, strike ''(g)'' and insert ''(h)''.

AMENDMENT NO. 3246

(Purpose: To permit qualified HUBZone small business concerns and small business concerns owned and controlled by service-disabled veterans to participate in the mentor-protege program of the Department of Defense)

At the end of subtitle G of title X, add the following:

**SEC. ___. MENTOR-PROTEGE PILOT PROGRAM.**

Section 831(m)(2) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note) is amended—

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

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

(3) by adding at the end the following:

''(F) a small business concern owned and controlled by service–disabled veterans (as defined in section 8(d)(3) of the Small Business Act); and

''(G) a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act).''.

AMENDMENT NO. 3390, AS MODIFIED

(Purpose: To express the sense of Congress on the Global Partnership Against the Spread of Weapons of Mass Destruction)

At the end of subtitle F of title X, add the following:

**SEC. 1055. SENSE OF CONGRESS ON THE GLOBAL PARTNERSHIP AGAINST THE SPREAD OF WEAPONS OF MASS DESTRUCTION.**

It is the sense of Congress that the President should be commended for the steps taken at the G–8 summit at Sea Island, Georgia, on June 8–10, 2004, to demonstrate continued support for the Global Partnership against the Spread of Nuclear Weapons and Materials of Mass Destruction and to expand the Partnership by welcoming new members and using the Partnership to coordinate nonproliferation projects in Libya, Iraq and other countries; and that the President should continue to—

(1) expand the membership of donor nations to the Partnership;

(2) insure that Russia remains the primary partner of the Partnership while also seeking to fund through the Partnership efforts in other countries with potentially vulnerable weapons or materials;

(3) develop for the Partnership clear program goals;

(4) develop for the Partnership transparent project prioritization and planning;

(5) develop for the Partnership project implementation milestones under periodic review;

(6) develop under the Partnership agreements between partners for project implementation; and

(7) give high priority and senior-level attention to resolving disagreements on site

access and worker liability under the Partnership.

AMENDMENT NO. 3273, AS MODIFIED

(Purpose: To revise and extend the authority for an advisory panel on review of Government procurement laws and regulations)

On page 158, between lines 6 and 7, insert the following:

**SEC. 805. REVISION AND EXTENSION OF AUTHORITY FOR ADVISORY PANEL ON REVIEW OF GOVERNMENT PROCUREMENT LAWS AND REGULATIONS.**

(a) RELATIONSHIP OF RECOMMENDATIONS TO SMALL BUSINESSES.—Section 1423 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 106–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended—

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

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

''(d) ISSUES RELATING TO SMALL BUSINESSES.—In developing recommendations under subsection (c)(2), the panel shall—

''(1) consider the effects of its recommendations on small business concerns; and

''(2) include any recommended modifications of laws, regulations, and policies that the panel considers necessary to enhance and ensure competition in contracting that affords small business concerns meaningful opportunity to participate in Federal Government contracts.''.

(b) REVISION AND EXTENSION OF REPORTING REQUIREMENT.—Section 1423(d) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended—

(1) by striking ''one year after the establishment of the panel'' and inserting ''one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005'';

(2) by striking ''Services and'' both places it appears and inserting ''Services,'';

(3) by inserting '', and Small Business'' after ''Government Reform''; and

(4) by inserting '', and Small Business and Entrepreneurship'' after ''Governmental Affairs''.

AMENDMENT NO. 3284, AS MODIFIED

(Purpose: To require an independent report on the efforts of the National Nuclear Security Administration to understand the aging of plutonium in nuclear weapons)

On page 394, after line 22, insert the following:

**SEC. 3122. REPORT ON EFFORTS OF NATIONAL NUCLEAR SECURITY ADMINISTRATION TO UNDERSTAND PLUTONIUM AGING.**

(a) STUDY.—(1) The Administrator for Nuclear Security shall enter into a contract with a Federally Funded Research and Development Center (FFROC) providing for a study to assess the efforts of the National Nuclear Security Administration to understand the aging of plutonium in nuclear weapons.

(2) The Administrator shall make available to the FFROC contractor under this subsection all information that is necessary for the contractor to successfully complete a meaningful study on a timely basis.

(b) REPORT REQUIRED.—(1) Not later than two years after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the findings of the study on the efforts of the Administration to understand the aging of plutonium in nuclear weapons.

(2) The report shall include the recommendations of the study for improving the knowledge, understanding, and application of the fundamental and applied sciences related to the study of plutonium aging.

(3) The report shall be submitted in unclassified form, but may include a classified annex.

AMENDMENT NO. 3434, AS MODIFIED

(Purpose: To express the sense of the Senate on the effects of cost inflation on the value range of the contracts to which a small business contract reservation applies)

On page 164, after line 18, insert the following:

**SEC. 816. SENSE OF THE SENATE ON EFFECTS OF COST INFLATION ON THE VALUE RANGE OF THE CONTRACTS TO WHICH A SMALL BUSINESS CONTRACT RESERVATION APPLIES.**

(a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) in the administration of the requirement for reservation of contracts for small businesses under subsection (j) of section 15 of the Small Business Act (15 U.S.C. 644), the maximum amount in the contract value range provided under that subsection should be treated as being adjusted to the same amount to which the simplified acquisition threshold is increased whenever such threshold is increased under law; and

(2) the Administrator for Federal Procurement Policy, in consultation with the Federal Acquisition Regulatory Council, should ensure that appropriate governmentwide policies and procedures are in place—

(A) to monitor socioeconomic data concerning purchases made by means of purchase cards or credit cards issued for use in transactions on behalf of the Federal Government; and

(B) to encourage the placement of a fair portion of such purchases with small businesses consistent with governmentwide goals for small business prime contracting established under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINED.—In this section, the term ''simplified acquisition threshold'' has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

AMENDMENT NO. 3401

(Purpose: To amend the Federal Fire Prevention and Control Act of 1974 to provide financial assistance for the improvement of the health and safety of firefighters, promote the use of life saving technologies, and achieve greater equity for departments serving large jurisdictions)

(The amendment is printed in the RECORD of Monday, June 7, 2004)

AMENDMENT NO. 3237, AS MODIFIED

(Purpose: To ensure fairness in the standards applied to members of the Army in the awarding of the Combat Infantryman Badge and the Combat Medical Badge for service in Korea in comparison to the standards applied to members of the Army in the awarding of such badges for service in other areas of operations)

On page 86, between lines 9 and 10, insert the following:

**SEC. 543. PLAN FOR REVISED CRITERIA AND ELIGIBILITY REQUIREMENTS FOR AWARD OF COMBAT INFANTRYMAN BADGE AND COMBAT MEDICAL BADGE FOR SERVICE IN KOREA AFTER JULY 28, 1953.**

(a) REQUIREMENT FOR PLAN.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for revising the Army's criteria and eligibility requirements for award of the Combat Infantryman Badge and the Combat Medical Badge for service in the Republic of Korea after July 28, 1953, to fulfill the purpose stated in subsection (b).

(b) PURPOSE OF REVISED CRITERIA AND ELIGIBILITY REQUIREMENTS.—The purpose for revising the criteria and eligibility requirements for award of the Combat Infantryman Badge and the Combat Medical Badge for service in the Republic of Korea after July 28, 1953, is to ensure fairness in the standards applied to Army personnel in the awarding of such badges for Army service in the Republic of Korea in comparison to the standards applied to Army personnel in the awarding of such badges for Army service in other areas of operations.

AMENDMENT NO. 3279, AS MODIFIED

(Purpose: To require a report on any relationships between terrorist organizations based in Colombia and foreign governments and organizations)

On page 269, between lines 2 and 3, insert the following:

(f) REPORT ON RELATIONSHIPS BETWEEN TERRORIST ORGANIZATIONS IN COLOMBIA AND FOREIGN GOVERNMENTS AND ORGANIZATIONS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall, in consultation with the Secretary of Defense and the Director of Central Intelligence, submit to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that describes—

(A) any relationships between foreign governments or organizations and organizations based in Colombia that have been designated as foreign terrorist organizations under United States law, including the provision of any direct or indirect assistance to such organizations; and

(B) United States policies that are designed to address such relationships.

(2) The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

AMENDMENT NO. 3279

Mr. NELSON of Florida. Mr. President, I rise to address amendment No. 3279 to the pending bill. This amendment asks the administration to report on any relationships between foreign governments or groups operating within their territories and foreign terrorist organizations in Colombia. It also asks the administration to describe United States policies that are designed to address such relationships.

This amendment, tragically, is extremely timely in light of today's news. This morning's Miami Herald reported that in Little River, Colombia, in the province of Norte de Santander, over 30 peasants were murdered in cold blood. Terrorists entered their residencies and shot them to death with automatic weapons. The FARC is suspected to have committed this crime. While Colombia, with tremendous support of the U.S., has made great strides in fighting narcoterrorism under President Uribe, there is still much work to be done, as is underscored by yesterday's events.

The FARC and the ELN, Colombia's two main rebel groups, both of which have been designated by the United States as foreign terrorist organizations, continue to conduct terrorist attacks against civilians in their campaign against the Colombian government. These groups are also heavily involved in the drug trade that does so

much harm to Colombia and to our own country. At a time when Colombia is making slow but steady gains in its long struggle against the FARC, the last thing it needs is to have neighboring countries providing assistance to these brutal adversaries.

To be perfectly blunt, my primary concern is with Venezuela. On my visit to Colombia and Venezuela in April, I heard some disturbing accounts from various U.S. officials of instances in which the FARC had been able to cross the line into Venezuela and conduct operations from that side of the border from virtual safe havens. Colombian authorities are also suspicious that the Chavez government has been willing to, at a minimum, look the other way while FARC elements operate in Venezuela, if not actually permitting some level of coordination.

Threatening to compound the ''safe haven'' problem for the United States and Colombia is the fact that Venezuela also harbors a potent market in false documentation, such as passports and other identity cards. I am increasingly concerned at the ease with which, simply by buying off officials for $800 or $900, one can acquire fully legitimate, yet false, documents in Venezuela—everything from a passport to a driver's license. I am certainly concerned that international terrorist groups will discover their ability to acquire and make use of forged Venezuela documents to conduct terrorist attacks, and I raised these important issues with Venezuelan officials during my visit.

Naturallly, the Venezuelan government disputes these serious allegations. What this amendment would do is help us establish the facts. If groups in Colombia that our government has designated as foreign terrorist organizations are receiving support or assistance from Venezuela, or any of Colombia's other neighbors, or any other state for that matter, we need to know about it and adjust our policies accordingly.

Right now, Colombia needs all the help it can get from its neighbors. In asking the administration to report on whether terrorist groups may have relationships with or be operating in neighboring countries such as Venezuela, perhaps we can address this problem in a more regional context and better understand what Colombia is up against.

I thank the chairman and ranking member and their staffs for their support.

AMENDMENT NO. 3401

Mr. DODD. Mr. President, it is my understanding that Senate amendment No. 3401 is acceptable to both the chair and ranking member. This amendment would reauthorize the Assistance to Firefighters Grant Program, or the FIRE Act, for the next 6 years.

It is based on bipartisan legislation introduced by Senator DEWINE and myself on May 11, 2004. The bill, S. 2411, currently has 39 co-sponsors, including the distinguished Chairman and Ranking Member of the Senate Armed Services Committee.

As many of our colleagues know, the Senate approved by unanimous consent the original FIRE Act as part of the Defense Authorization bill 4 years ago. There is some precedent, then, for this amendment to the current Defense Authorization bill, despite the fact that the legislation falls under the jurisdiction of the Senate Commerce Committee.

Unless Congress quickly reauthorizes the FIRE Act grant program, it will expire at the end of the current fiscal year on September 30, 2004. If this legislation is not quickly enacted, fire departments throughout the Nation will not receive the assistance they need to fight fires, save lives, and protect their own.

I have consulted with the distinguished Chairman of the Senate Commerce Committee about the urgency of reauthorizing the FIRE Act before the fiscal year ends. He is fully aware of the fact that we have precious few legislative days left on the Senate Calendar. Accordingly, he has indicated to me his intention to hold a hearing on the reauthorization bill on July 8, with a markup to follow before the August recess.

Assuming that this schedule holds firm, my expectation is that legislation passed by the Commerce Committee would take the place of amendment No. 3401. In the event that work on the Defense Authorization Act is not completed this year, I am also prepared to move the FIRE Act reauthorization as a free-standing bill. Alternatively, should the Commerce Committee not act on this legislation, the Senate will have at least acted to reauthorize the FIRE Act adopting amendment No. 3401.

In closing, I thank Senator MCCAIN for his leadership on this issue, and his unwavering commitment over the years to advancing the cause of firefighters. I also commend Chairman WARNER and Senator LEVIN for their willingness to help the Nation's fire services on the Defense Authorization bill both today and 4 years ago. Finally, I would like to express my appreciation to Senator HOLLINGS for his wise counsel and strong support for the FIRE Act initiative.

I yield to the distinguished Senator from Virginia.

Mr. WARNER. Mr. President. I thank the Senator from Connecticut. I am prepared to accept this amendment based on the understanding he has reached with the distinguished Chairman of the Commerce Committee.

As Senator DODD indicated, the Commerce Committee plans to hold a hearing on the FIRE Act on July 8, with a markup expected shortly thereafter. I look forward to working with Senators MCCAIN, DODD, and DEWINE to ensure that this important legislation to help our Nation's fire departments is enacted into law this year.

Mr. MCCAIN. I thank the distinguished Chairman of the Armed Services and my friend from Connecticut for the opportunity to work with them to reauthorize this important program.

As Chairman of the committee of jurisdiction over the Assistance to Firefighters Grant Program, I am familiar with this program's success. This program provides grants to local fire departments using a competitive, merit-based review process. I agree with my colleagues that this program is an example of a well-run government program that should be reauthorized, and am proud to be a cosponsor of S. 2411.

I have consented to allow Senator DODD's amendment be added to this important legislation as a placeholder. The Senate Commerce Committee intends to hold a hearing on S. 2411 on July 8, 2004, and then we expect to report the bill out of Committee by the August recess. It is my intention that this reported version of S. 2411 be used to replace the placeholder during the conference for S. 2400.

I thank Senators DODD, WARNER, and DEWINE for their leadership on this issue, and look forward to working with them to pass this legislation this year.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Before the Senator from New York speaks, I wonder if I might get the attention of the distinguished whip?

If we can have assurance, as the managers depart the floor, to do some other work, that this will be the final action on this bill tonight?

Mr. REID. I will indicate, as both managers know, tomorrow Senator LAUTENBERG is going to offer two amendments, Senator DURBIN is going to offer two amendments, Senator REED is going to offer his amendment, if he so chooses, on missile defense, and I am going to offer my amendment on current receipts.

Mr. WARNER. Mr. President, the distinguished Senator from Nevada went over that with me, and that strikes me as a very good day. If a Republican Senator desires an amendment, we will work him or her into the queue as the case may be.

Mr. REID. Absolutely.

Mr. WARNER. Then we might mention also the schedule for Monday?

Mr. REID. On Monday, we have Senator LEVIN, Senator DAYTON, Senator BYRD, and Senator BINGAMAN, and there may be others as the day progresses.

Mr. WARNER. That is correct. These are the amendments that have been forthcoming on the other side of the aisle.

I am prepared to assist my colleagues on this side if they have matters, but we are really working toward what the majority leader, in consultation with

the distinguished Democratic leader, indicates. We are going to conclude this bill on Tuesday.

Mr. REID. We will do our very best—Tuesday night or Wednesday morning. But we are doing quite well.

Mr. WARNER. It is largely due to the tremendous cooperation on both sides. So we have the assurance that this will be the completion of the work tonight?

Mr. REID. Absolutely.

Mr. WARNER. I thank the distinguished leader.

Mr. REID. There will be no more votes. The Chair already announced that. Can the Senator from New York be recognized for 5 minutes?

The PRESIDING OFFICER. Is there objection? The Senator from New York is recognized for 5 minutes.

Mr. WARNER. And the Senator from Missouri wishes to speak for how many minutes?

Mr. TALENT. I would like 5, but I probably will not use them.

Mr. WARNER. Five minutes to follow the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. If the Senator will yield for a unanimous consent, I ask unanimous consent the Senator from North Dakota, Mr. CONRAD, be added as a cosponsor to amendment No. 3432, which has already been agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3163, AS MODIFIED

Mrs. CLINTON. Mr. President, I rise to thank the chairman and ranking member for the work they and their staffs have done, along with the Senator from Missouri and myself and our staffs, to accept an amendment that addresses two issues critical to our men and women in uniform. First, through this amendment we are attempting to develop better policies and information in order to track the health of soldiers and others in uniform after a deployment overseas.

Second, we are seeking to improve the medical and dental readiness of our National Guard members and reservists.

Last month, Senator TALENT and I introduced the Armed Forces Personnel Medical Readiness and Tracking Act of 2004. I am delighted that many of the ideas we have advocated are included in this legislation because of our amendment.

It has been a pleasure working with my colleague on the Armed Services Committee, Senator TALENT, and with his staff.

When I was First Lady, I worked to bring attention to the problems and symptoms that many of our veterans returning from the 1991 gulf war experienced. This constellation of symptoms came to be known as the Gulf War Syndrome.

During Senate Armed Services Committee hearings in February 2003, before the current Iraq war, I asked the Chairman of the Joint Chiefs, General Myers, and each of the Service Chiefs, whether they would be monitoring and tracking the health of our soldiers who are deployed in the gulf.

They assured me they would. But I am afraid that based on reports from soldiers returning from this deployment, we have not done all we should to screen and track the health of our soldiers. Indeed, several weeks ago we had several soldiers from the 442 MP unit out of Orangeburg, NY, who are being treated at Fort Dix for injuries and symptoms they incurred in Iraq, including headache, sleeplessness, and many others.

We know very well our enemy stops at nothing. The use of Sarin in an artillery shell in Iraq last month demonstrates more than ever the need to have adequate information about the health of our young men and women.

The legislation we have championed that is being adopted seeks to establish procedures to ensure that the information is systematically collected so that, if soldiers return exhibiting certain symptoms, there will be a base of information on which we can determine what could have caused that.

The amendment requires the Department of Defense to develop a comprehensive plan to improve medical readiness and tracking before, during, and after deployment. It establishes a Joint Medical Readiness Oversight Committee to advise the Secretary of Defense on the medical readiness and health status of members of the active Reserve components.

It requires compliance of the Armed Forces with medical readiness and tracking policies. It requires that we develop and implement the annual readiness plan.

The committee will include DOD officials and experts in the military service organizations, veterans service organizations, and civilians.

Finally, current law requires the information about the health of soldiers returning from deployment to be collected, but it appears these provisions are not being enforced. So we require audits of blood serum collection programs, as well as the predeployment and postdeployment health assessment database that DOD is supposed to maintain.

These problems have come to light because of our many Guard and Reserve members who have been deployed, and we are finding too many examples where they don't have the requisite medical readiness and where they are not sufficiently tracked.

This is an effort to do what we should do—the right thing to treat our young men and women in uniform. I am hoping it provides a good base for us to learn more about what they are supposed to do during their deployment in the gulf and elsewhere around the world.

I thank my colleague from Missouri as well as the chairman and ranking member for working with us and I look forward to seeing this implemented to further the health of our young men and women.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I wish to say a few words on our amendment, but before I do that, let me take a minute to compliment again Senator BOND, who laid down the amendment and Senator HARKIN for cosponsoring it, to assist former employees in Iowa and Missouri who were affected because they worked in plants that produced the atomic materials from which we made the atom bombs which won the war and then kept us safe.

Because of their exposure to the radiation, they have become ill and they deserve compensation. They are not getting it because of the convoluted procedures that are currently in place. We simply want to allow them to be treated separately as already occurs with employees in the four States.

I admire the way Senator BOND has fought like a tiger for those employees. I have joined him in doing that.

I appreciate the work of the managers of the bill in trying to figure out a way to accept that amendment. I hope we can, indeed, do that. It is just a matter of justice for these employees.

I also wish to speak for a moment about the amendment which Senator CLINTON and I offered based on the legislation which we sponsored together some weeks ago. I want to return her kind words and say it has been a pleasure to work with her and her staff on a strong bipartisan basis to make these changes which we think are necessary to protect the health of our men and women in the military, and also to make certain they are ready to be deployed when they need to be deployed. Those are the two things we are trying to do.

Before employees, service men and women are deployed to combat theaters, we require that a blood sample be drawn from them, and after they return that another blood sample be drawn from them.

The point is, it has happened too often in the past where service men and women coming back from active duty show signs and symptoms of illness, and we can't figure out what is wrong. We need baseline blood tests so we can tell the extent to which their blood is deviate and their health symptoms are deviating from what they were before deployment. This will give us a clue as to what is wrong with them so we can avoid another gulf war syndrome episode.

I have had vets from Missouri over several years talking to me about this issue. We allow the military to do it today, particularly with regard to reservists and guardsmen because it is often not done because local commanders want to get them deployed and into the theater.

This is very important and now it will be the law. I am grateful to the managers of the amendment for accepting that part of the amendment.

The other point is to simply improve the health of our Active and Reserve component service men and women. We put in place a joint committee to oversee the medical tracking system that is supposed to be in place but isn't implemented as well as it should be.

We require that reservists receive detailed health assessments at least every 2 years. Right now they only get exams every 5 years.

We require routine health baselines for all our recruits entering the armed services so we will know the health status of people when they enter the military.

There are a number of other good measures as well.

I only have 5 minutes. I imagine I have used most of that.

Let us say it has been a pleasure to work with the Senator from New York and her staff. We are jointly grateful to the Senator from Virginia and the Senator from Michigan for their openness on this amendment, and we are pleased that it was agreed to and look forward to holding it through the rest of the process.

I yield my time.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3235

Mr. BROWNBACK. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 3235.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language)

On page 280, after line 22, insert the following:

**SEC. ___. BROADCAST DECENCY ENFORCEMENT ACT OF 2004.**

(a) SHORT TITLE.—This section may be cited as the ''Broadcast Decency Enforcement Act of 2004''.

(b) INCREASE IN PENALTIES FOR OBSCENE, INDECENT, AND PROFANE BROADCASTS.—Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph:

''(C) Notwithstanding subparagraph (A), if the violator is—

''(i)(I) a broadcast station licensee or permittee; or

''(II) an applicant for any broadcast license, permit, certificate, or other instrument or authorization issued by the Commission; and

''(ii) determined by the Commission under paragraph (1) to have broadcast obscene, indecent, or profane language, the amount of any forfeiture penalty determined under this subsection shall not exceed $275,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $3,000,000 for any single act or failure to act.''; and

(3) in subparagraph (D), as redesignated by paragraph (1), by striking ''subparagraph (A) or (B)'' and inserting ''subparagraph (A), (B), or (C)''.

Mr. BROWNBACK. Mr. President, on this amendment, I am being joined by Senator LIEBERMAN and Senator ZELL MILLER.

It is a simple issue. I want to take a few minutes to explain it. I am hopeful we will get strong support in this body as in the House. A similar bill came up earlier in the House and it passed that body 391 to 22. The same issue passed the Commerce Committee in the Senate 14 to 0 on a recorded vote.

It is an issue of fines and decency on over-the-air broadcasts—whether it be radio or television.

I think it is important to put my comments in context today by explaining the policy history of this issue; that is, decency on over-the-air public airwaves.

At the invention of television, our Nation established a public policy of providing citizens with free over-the-air television. It gave broadcasters wishing to provide that service with the use of valuable spectrum. Not everyone can broadcast over the Nation's public airwaves. These are airwaves owned by the public. That is why the statute requires the Federal Communications Commission to evaluate not just the ability but the character of an entity to operate.

When handing out a broadcast license, in return for a license, each broadcaster agrees not to air indecent or obscene content between the hours of 6 a.m. and 10 p.m. The broadcaster gets a valuable piece of spectrum, which is public property. The broadcaster gets the right to use that. In exchange, one of the requirements is they not broadcast indecent or obscene content between the hours of 6 a.m. and 10 p.m.

Fines and license revocations have always been the discipline tool available to the FCC to help enforce America's longstanding commitment to broadcast decency.

This is an issue about license. It is an issue about the use of public property, and some modest limitation of that.

We live in a nation where we hold the first amendment in high regard, as well we should. In an effort to maintain the free exchange of information, thoughts, and opinions, we strive to avoid government involvement in communications content.

At the same time, as a nation, we strive to project decency and justice for all. As a nation raising children, we do the same. With the turning of a tuning knob, or the click of a remote, minors all across America are presented with the content of the public airwaves.

Broadcasters have a legal and a moral duty to ensure that American taxpayers—and especially children—are not assaulted by explicit material.

For years, we have been asking and waiting for the broadcasters to police themselves in this effort. Unfortunately, instead of fulfilling the public interest duty, they have allowed the content to grow steadily worse and worse.

Meanwhile, the companies that own the broadcast stations have grown steadily larger—and not surprisingly. Some of these broadcasters' profit margins have made them immune to the FCC's current fine structure. Let me give you an example.

Today's maximum fine for an indecent broadcast is $27,500. That seems like a lot of money—and it is to some. But it isn't to others. Compare that fact to a 30-second commercial during the 2004 Super Bowl which cost advertisers an average of $2.3 million for a 30-second ad.

In the words of the FCC Commissioner, Michael Powell, these fines are peanuts to the big media conglomerates. That is why we are here to increase the fine structure for indecency and obscene broadcasts. The threat of these fines will be taken seriously and force broadcasters to protect their consumers from explicit content.

Nothing in this amendment forges any new ground in broadcast decency law. The intent is simple: To increase the fines for indecent broadcasts to mask the realities of today's media markets. This amendment would increase the maximum fines tenfold, from $27,500 to $270,000, with a maximum $3 million cap per incident per day.

Why do we need to do this? We need this amendment to end the growing volume of graphic content on free over-the-air broadcasts. Remember, broadcasters profit from exclusive and free use of the public airwaves which gives them unique access to all Americans, particularly America's youth. With that access to our country's intellectual, moral, and social development comes a set of moral and social responsibilities and obligations that are agreed to in the licensing process.

I am very disappointed by the apparent confusion the broadcasters are having between the right to do something and the right thing to do when it comes to the public airwaves.

Recently, FOX and VIACOM announced they were going to appeal the FCC Bono ruling so they can use the ''F'' word on broadcast television. This is their response in spite of the fact that the FCC overturned the original rule in response to a fierce public outcry.

This hostile response the public is getting from broadcasters is inexcusable. We see time and again media leaders defending their profit-driven

motives by airing explicit content and then falsely hiding behind their so-called first amendment rights. Broadcasters have joined the shock jocks of the country to shout down those who publicly question harmful content as an anti-first-amendment censor. In abandoning their duty to adhere to decency standards, broadcasters point to the absence of decency regulations on cable television. This is just a red herring. We are talking about public airwaves and a public right to air decent material.

The broadcasters argue they have a right to air indecent, obscene, and profane material. But that is a disgraceful abuse of the first amendment. I support the first amendment and its guarantees of free speech. It is the basis of much of the freedoms we enjoy in our great democracy. But there are limits, and particularly here, where we are dealing with a public license and the use of public property where the licensee has agreed to not broadcast indecent material.

This principle has been affirmed by the Supreme Court of the United States in the famous Pacifica case where it was upheld that the Government had the right to protect the public airwaves. This case came to the Court in the early 1970s when George Carlin's famous ''filthy words monologue'' was broadcast during the middle of the day on a New York radio station owned by Pacifica Foundation. A father driving with his son heard the broadcast and complained to the FCC. The FCC said that if those kinds of words were used again, the radio station airing them would be fined. Just like today, the broadcasters challenged the ruling and the case went all the way to the Supreme Court. The Court upheld the FCC action and added that it could continue to fine broadcasters in the future because broadcasters had to take special care not to air material that would offend or shock children.

The majority opinion stressed that of all the forms of communication, broadcasting has the most limited first amendment protection because it extends into the privacy of the home and is uniquely accessible to children.

The FCC has been too lax for too long enforcing the law on broadcasters. A recent public outcry has been a wake-up call for the FCC. The Commission told us they do not have all the tools they need for effective enforcement. That is why we are here today.

Passing this legislation will tell the broadcasters that we are serious about protecting our airwaves and we will give the FCC updated tools to get the job done. I don't know if I need to remind my colleagues that this came to the forefront at this year's Super Bowl, an event families across the country watch together. At the halftime show, the incident between Justin Timberlake and Janet Jackson set off a firestorm that had been brewing for a long period of time.

Finally people said: Look, I have had enough; I don't want to see this any more, particularly when I am watching TV with my family. That is what launched this forward.

We have been waiting for years for the broadcasters to voluntarily take care of this growing problem. They have failed. Instead, they are fighting tooth and nail for the availability to air graphic material so they can increase their profit margins.

America deserves better. That is why we need to make the consequences of broadcasting indecency punitive so the standards are no longer ignored.

I urge my colleagues to vote for this amendment. Increasing the fines will help clean up our Nation's free, over-the-air television and radio by holding accountable broadcasters who use the public airwaves and individuals who use the opportunity of a live performance to gain notoriety through indecent acts.

As I noted previously, this has been considered by the Senate Commerce Committee and it has passed unanimously in that committee. It has been considered previously by the House of Representatives, which has voted 391 in favor with only 22 against increasing these fines. They actually have some teeth in today's marketplace. I urge my colleagues to vote for this amendment.

I ask for the yeas and nays when we vote on this Monday. I further ask unanimous consent that when we go back to this amendment on Monday that I be recognized first to speak if there are any further amendments that are proposed to this that are to be considered on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator has requested the yeas and nays.

Mr. BROWNBACK. Mr. President, I have been informed that we need colleagues on the other side to respond to yeas and nays and I will not ask for that until we do get that agreement from my colleagues on the other side of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I send to the desk a second-degree amendment to the pending amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for himself and Mr. ENSIGN, proposes an amendment numbered 3457 to amendment No. 3235.

Mr. BURNS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

**SEC. . ADDITIONAL FACTORS IN INDECENCY PENALTIES; EXCEPTION.**

Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)), as amended by section 102 of this Act, is further amended by adding at the end the following:

''(F) In the case of a violation in which the violator is determined by the Commission under paragraph (1) to have uttered obscene, indecent, or profane material, the Commission shall take into account, in addition to the matters described in subparagraph (E), the following factors with respect to the degree of culpability of the violator:

''(i) Whether the material uttered by the violator was live or recorded, scripted or unscripted.

''(ii) Whether the violator had a reasonable opportunity to review recorded or scripted programming or had a reasonable basis to believe live or unscripted programming would contain obscene, indecent, or profane material.

''(iii) If the violator originated live or unscripted programming, whether a time delay blocking mechanism was implemented for the programming.

''(iv) The size of the viewing or listening audience of the programming.

''(v) The size of the market.

''(vi) Whether the violation occurred during a children's television program (as such term is used in the Children's Television Programming Policy referenced in section 73.4050(c) of the Commission's regulations (47 C.F.R. 73.4050(c)) or during a television program rated TVY, TVY7, TVY7FV, or TVG under the TV Parental Guidelines as such ratings were approved by the Commission in implementation of section 551 of the Telecommunications Act of 1996, Video Programming Ratings, Report and Order, (CS Docket No. 97–55, 13 F.C.C. Rcd. 8232 (1998)), and, with respect to a radio broadcast station licensee, permittee, or applicant, whether the target audience was primarily comprised of, or should reasonably have been expected to be primarily comprised of, children.

''(G) The Commission may double the amount of any forfeiture penalty (not to exceed $550,000 for the first violation, $750,000 for the second violation, and $1,000,000 for the third or any subsequent violation not to exceed up to $3,000,000 for all violations in a 24 hour time period notwithstanding section 503(b)(2)(C)) if the Commission determines additional factors are present which are aggravating in nature, including—

''(i) whether the material uttered by the violator was recorded or scripted;

''(ii) whether the violator had a reasonable opportunity to review recorded or scripted programming or had a reasonable basis to believe live or unscripted programming would contain obscene, indecent, or profane material;

''(iii) whether the violator failed to block live or unscripted programming;

''(iv) whether the size of the viewing or listening audience of the programming was substantially larger than usual, such as a national or international championship sporting event or awards program;

''(v) whether the obscene, indecent or profane language was within live programming not produced by the station licensee or permittee; and

''(vi) whether the violation occurred during a children's television program (as defined in subparagraph (F)(vi)).''.

Mr. BURNS. This is a friendly second-degree amendment. We have talked about and, of course, we know that the bill that has been voted out of the committee and is waiting for floor action moves this along.

We were all shocked and dismayed over the spectacle at the Super Bowl this year. Those responsible should be severely punished for such a vulgar display of tastelessness.

That being said, this high-profile, well-publicized incident could prompt

Congress to go too far. In some areas of this bill, we did go too far. This second-degree amendment fixes that.

While I fully support the underlying Brownback legislation, I am offering this second-degree amendment to protect the interests of small broadcasters that should not be punished for the events outside of their control.

I am sorry I did not see the halftime show during the Super Bowl. I saw who it was going to be. It was put on by MTV, which I never watch, for very good reason. It ought to be a pay channel. I moved over to the poker tournament on ESPN, so I missed the whole spectacle. But, nonetheless, lots of families did not.

In the case of the Super Bowl, for example, many affiliates were furious their viewership was exposed to such a spectacle. The amendment I offer simply calls on the FCC to consider the size and revenues of the stations in question, as well as whether they had anything to do with producing the offensive content in question. In other words, we have small market television stations that have no control on content but may find themselves in a lawsuit for indecent content that might be broadcast.

Finally, I believe, as we approach these issues, we must take a hard look at the declining standards across all media. I understand there have been industry efforts to develop indecency guidelines that will apply fairly and evenly across all media platforms that distribute content. I think this approach could prove enormously beneficial in setting unified standards so individual broadcasters understand what is expected of them. Additional clarity in terms of content standards would also eliminate excuses among those who choose to push the envelope, the limits of vulgarity for commercial gain.

Nothing in the broadcast industry has been talked about so much as the halftime at this year's Super Bowl. It has absolutely been on the minds of broadcasters across this country.

The American people clearly expect Congress to act on the indecency issue. So I call on my colleagues to adopt this second-degree amendment I have offered, which will help to produce real solutions without unduly penalizing small broadcasters.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWNBACK. 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. BROWNBACK. Mr. President, in speaking to the Burns second-degree amendment, this is an amendment that was considered in the Commerce Committee and added to the base bill at that time. What he is proposing to do makes a lot of sense. I do not see a problem with that at all, so I would be supportive of doing that.

Overall, we want to get this to move it forward. The House has moved on this action. The FCC is seeking this authority. So we really want to try to get this to move on through the process, if at all possible. We are not having further rollcall votes until Monday, so we will proceed at that time, and I will ask for a rollcall vote then.

Mr. GREGG. Mr. President, earlier today the Senate adopted the Murray amendment No. 3427, to facilitate the availability of childcare for the children of members of the Armed Forces on active duty in connection with Operation Iraqi Freedom or Operation Enduring Freedom.

I support that amendment but wanted to additionally acknowledge efforts that are already underway in the private sector to help support those who are risking their lives to keep us safe.

I would like to speak about the American spirit. We are a people who can do great things when united. We have witnessed this in recent months with dozens of home-front stories of the many great deeds of Americans in support of our troops and our Nation's efforts abroad in the war on terror.

There is Spirit of America, a private group which set out to raise $100,000 to build TV stations in Iraq. Americans responded with thousands of donations totaling $1.52 million. Federal Express donated the domestic shipping costs of the equipment for this gift to the country of Iraq. Those stations are being built now and will offer the Iraqi people a national and independent news source that is not Al-Jazeera. This is great.

This American spirit is also responsible for the gift of 10,000 school supply kits, 3 tons of medical supplies, and 2 tons of 'friendship' Frisbees to the Iraqi people, all paid for and donated by Americans.

You hear about American students donating books to Iraqi schools and sending letters to Iraqi children.

And now, thousands of childcare providers have united across the country to donate childcare services to National Guard and Reserve members home on 2 week R&R leave from Iraq and Afghanistan to allow them to carry out personal business, take their spouses out on a date, or enjoy other recreational activities while they are home.

Operation Childcare is an effort of the Nation's network of childcare resource and referral, NACCRRA, their local agencies, and thousands of childcare providers across the country to give back to those men and women who are fighting to keep us safe. This program was designed for those members of the military who do not live near military bases and therefore do not have access to family support programs provided to Active-Duty personnel.

So far, over 4,700 centers and individual providers have signed on to Operation Childcare. In my home State of New Hampshire there are 35 providers who are donating childcare to our guardsmen and reservists. These numbers continue to grow, as more people hear about the program.

Childcare providers who volunteer their time for Operation Childcare will receive official recognition, but I suspect many would agree with one childcare provider in Tennessee who said:

> You don't have to recognize me—I am just thrilled and honored to be able to do something to help our troops.

NACCRRA should be applauded for their efforts in organizing this service for our service members.

This is but a snapshot of the home-front efforts being carried out by thousands of Americans across this country. The American people are truly united behind our men and women in uniform. This is the American spirit that continues to inspire.

Mr. DEWINE. Mr. President, I am pleased to put my full support behind an agreement made between Senators DODD, MCCAIN, WARNER, LEVIN, and HOLLINGS to attach the Assistance to Firefighters Act of 2004, as amendment No. 3309, to the pending Department of Defense Authorization bill.

Each day, we entrust our lives and the safety of our families, friends, and neighbors to the capable hands of the brave men and women in our local police departments. These individuals are willing to risk their lives and safety out of a dedication to their citizens and their commitment to public service.

We ask local firefighters to risk no less than their lives, as well, every time they respond to an emergency fire alarm, a chemical spill, or as we saw on September 11—terrorist attacks. We ask them to risk their lives responding to the nearly 2 million reports of fire that they receive on an annual basis. Every 18 seconds while responding to fires, we expect them to be willing to give their lives in exchange for the lives of our families, neighbors, and friends. One hundred firefighters lost their lives in 2002 in the line of duty, and nearly 450 lost their lives in 2001. The unyielding commitment these individuals have made to public safety surely deserves an equally strong commitment from the Federal Government.

In 2000, Congress affirmed the value of having a properly trained, equipped, and staffed fire service by passing the Firefighter Investment and Response Enhancement, FIRE, Act—legislation that Senator DODD and I introduced, along with Congressmen PASCRELL, WELDON, and many others, on the House side. In the 4 years since the FIRE Act became law, fire departments have made significant progress in terms of filling the substantial needs outlined in the National Fire Protection Association's ''needs assessment.''

To date, Congress has appropriated nearly $2 billion dollars for the FIRE Act program. Virtually every penny of

that amount has gone directly to local fire departments through FIRE grants to provide firefighter personal protective equipment, training to ensure more effective firefighting practices, breathing apparatus, new firefighting vehicles, emergency medical services supplies, fire prevention programs, and other important uses.

The direct nature of the FIRE Act grant program—funds literally go straight from the Federal Government to local fire departments—is an extremely important aspect of the law, particularly in light of the difficulties we are seeing with other homeland security grant programs getting money to flow directly to the intended recipients.

FIRE Act grants are awarded based on a competitive, peer-review process that helps ensure that the most important needs are filled first and that funding will be used in an effective manner. I am proud to note that 86 of Ohio's 88 counties have received FIRE Act funding up to this point and that the fire service in my home state is much better prepared to respond to emergencies as a result. The bottom line is this: The FIRE Act program has proven to be an extremely valuable tool for fire-based first responders.

The time has come to reauthorize this important legislation—to build upon the successes of the original FIRE Act and to refine the program where improvements can be made. Amendment No. 3309, which I am offering along with Senator DODD, accomplishes just that.

Our amendment focuses on four central themes. First, we take steps to make the grant program more accessible for fire departments serving small, rural communities and to eliminate barriers to participation faced by departments serving heavily populated jurisdictions. Second, we codify changes made in program administration since its transfer to the recently created Department of Homeland Security. Third, the amendment increases the emphasis within the program on life-saving Emergency Medical Services and technologies. And fourth, we evaluate the program through a series of reports to help ensure that resources are targeted to the areas of greatest need. These priorities have been developed jointly with the fire service, and represent a means to strengthen the FIRE Act program for years to come.

Our amendment would help the FIRE Act program more accessible for fire departments serving the very largest and smallest jurisdictions in America. Our experience over the past four years has been that a number of features in the program make participation difficult for departments serving these populations. Career fire departments, most of which serve populations well in excess of 50,000, have been receiving only a small percentage of the total grants thus far. After consulting with the fire service organizations, fire chiefs in my home State of Ohio, and officials administering the program at the Department of Homeland Security, we have found that there are two main reasons why this has been the case.

First, matching requirements for large departments, currently fixed at 30 percent, have been particularly difficult to meet. Second, current law dictates that departments—whether they serve a large city, such as Cleveland and have numerous fire stations, or a small town, such as Cedarville, OH, and have only one station—are eligible for the exact same level of funding each year: $750,000. These two elements of the current program have caused a number of large fire departments to forgo applying for FIRE grants. With respect to smaller, often volunteer-based departments serving populations of 20,000 or less, budgets are often so limited that meeting the current match is simply not possible. Many of these departments struggle with even the most basic needs, such as having an adequate number of staff available to respond to a structure fire.

Our legislation addresses each of these problems in a simple and straightforward fashion. Specifically, the amendment would reduce matching requirements by one third for departments serving communities of 50,000, and by one half for departments serving 20,000 or fewer residents in order to encourage increased participation by these departments. The amendment also would re-structure caps on grant amounts to reflect population served, with up to $2,250,000 for departments serving one million or more, $1,500,000 for departments serving between 500,000 and one million, and $1,000,000 for departments serving fewer than 500,000 residents. Together, these two changes would go a long way toward increasing the accessibility of the program for the very largest and smallest departments in the United States.

The second major component of our legislation has to do with the transfer of the FIRE Act Administration from the Federal Emergency Management Administration, FEMA, to the Department of Homeland Security, DHS. When FEMA's functions were transferred into the DHS, the FIRE grant program, along with the U.S. Fire Administration, also were transferred to DHS. As a part of that transfer, formal administration of the FIRE grant program has been delegated to the Department to the Office of Domestic Preparedness, ODP, which oversees all DHS grant programs. While the U.S. Fire Administration—the real fire experts within the Federal Government—remains involved, we need to take steps to formalize the management of the program following the transfer to DHS.

There are a number of reasons for solidifying program administration in law, chief among them being the ability of fire departments across our Nation to plan for the future, and the ability to ensure an ongoing role for fire experts in the process. First, our amendment gives the Secretary of Homeland Security overall authority for the program. This just makes sense given the Secretary's current home within ODP. Additionally, the amendment would codify in law practices currently in use by ODP—peer review by experts from national fire service organizations, a formal role for the U.S. Fire Administration, and collaborative meetings to recommend grant criteria.

These steps would benefit the program for years to come and would help bring stability to the increasingly mature FIRE grant program. Perhaps more importantly, formalizing the role of the U.S. Fire Administrator and national fire service organizations would help resolve a fundamental tension between the mission of the FIRE Act program, to improve firefighting and EMS resources nationwide for all hazards, and the mission of its caretaker, ODP, to focus on terrorism prevention and response.

It makes sense for ODP, as the central clearinghouse for grant programs within DHS, to manage the FIRE grant program. Equally so, it makes sense to build features into the program which would help ensure that the FIRE grant program will remain dedicated solely to the fire and Emergency Medical Services, EMS, communities and will not be diluted over time into a generic terrorism-prevention program. Our amendment carefully strikes this balance.

The third major focus of this amendment is on finding ways to improve safety and to save lives. We do this in a number of ways. First, we have teamed up with national fire service organizations to incorporate firefighter safety research into the fire prevention and safety set-aside program. This new research, supported by a 20 percent increase in funds for the prevention and safety set-aside, would help reduce the number of firefighter fatalities each year and would dramatically improve the health and welfare of firefighters nationwide.

Second, we place an increased emphasis on Emergency Medical Services. In most communities, the fire department is the chief provider for all emergency services, including EMS. To illustrate this point, a 2002 National Fire Protection Association study indicates that fire departments received more than seven times as many calls for EMS assistance as they did for fires. When our family members, neighbors, and friends need immediate medical help, we turn to EMS providers, and we rely on this help to be as effective and timely as possible. It is our duty in structuring the FIRE grant program, then, to do everything we can to give EMS squads the assistance they need to carry out this important mission.

Despite the overwhelming ratio of EMS calls to fire calls, the FIRE grant program has not adequately reflected the importance of EMS over the past few years, with about 1 percent of all grants going specifically for EMS purposes. While there is no question that a

number of other grants have indirectly benefited EMS and that departments do invest their own money into this service, more can and should be done through the FIRE Act to boost our EMS capabilities nationwide. To accomplish this goal, we do a number of things in the amendment, including specifically including fire-based EMS professionals in the peer review process and allowing EMS grant requests to be combined with those for equipment and training. We have already seen evidence that new, combined structure is making excellent progress this year in shifting a greater emphasis to EMS within the program.

Additionally, we include language to incorporate independent, nonprofit EMS squads into the FIRE grant program for the first time. While our work with national fire service organizations on this particular provision has been productive and is ongoing, its intent is clear—and that is to try to bring the emphasis within the FIRE grant program on EMS closer to the level of demand in the field for this life-saving service. I am pleased that we have this language in the amendment and believe that through markup in the Commerce Committee next month, and perhaps later during conference consideration of the underlying bill, we can find an even better solution for increasing support for EMS.

Third, we create a new incentive program within the FIRE Act that encourages departments to invest in life-saving Automated External Defibrillator, AED, devices. These devices are capable of dramatically reducing the number one cause of firefighter death in the line of duty—heart attacks. Our incentive program essentially says to fire departments that if you equip each of your firefighting vehicles with a defibrillator unit, we will give you a one-time discount on your matching requirement. Congress has expressed, time and again, strong support for getting these devices out to communities through various grant programs. It is our hope that we can maintain that commitment by extending support for lifesaving defibrillator technologies to fire departments across the country.

Fourth, we eliminate a burdensome and unintended matching requirement for fire prevention grants. These grants generally go to non-profit organizations, such as National SAFE KIDS, to provide for fire safety awareness campaigns, smoke detector installations in low-income housing, and other important prevention efforts. Though no match was required in the first few years of the program, a recent legal opinion from the Office of Domestic Preparedness has reversed course and instituted a 10 percent match for grantees. This unanticipated requirement, which is extremely difficult for nonprofits with limited capital, has had a debilitating effect on the prevention program and needs to be eliminated. Our legislation does just that.

Together, these commonsense features of our amendment would dramatically improve the safety of our communities, as well as the firefighters who bravely serve them.

The fourth section of this amendment centers on a comprehensive review of the FIRE grant program. This review, to be conducted in part by the National Fire Protection Association, and in part by the General Accounting Office, GAO, seeks to evaluate the program with an eye toward ensuring that resources are targeted to the areas of greatest need. A similar study by the National Fire Protection Association conducted shortly after passage of the initial FIRE Act was extremely helpful as far as identifying the nature of the fire service needs. Ultimately, this part of the amendment is about making sure that the billions of taxpayer dollars authorized by this legislation are used in the most responsible and effective manner possible.

Our amendment is a good amendment. It is comprehensive and collaboratively drafted with input from fire and emergency services experts from across the country. The National Safe Kids Campaign, the International Association of Fire Fighters, the International Association of Fire Chiefs, the National Volunteer Fire Council, the International Association of Arson Investigators, the International Society of Fire Service Instructors, and the National Fire Protection Association, among others, all support our legislation.

Furthermore, the process agreed upon between Senators DODD, MCCAIN, and WARNER for consideration of our amendment is a good process. Senator MCCAIN, in his capacity as chairman of the Committee of jurisdiction—the Commerce Committee—has graciously agreed to allow our amendment to be attached to the underlying bill, with the expectation that language reported out of his committee next month will be inserted in its place during conference negotiations. This arrangement gives our legislation the best possible opportunity to pass the Senate, with the added benefit of thorough deliberative consideration through the committee structure. I appreciate Chairman MCCAIN's, and ranking member HOLLINGS' willingness to take this approach, Senator DODD's hard work to reach a positive resolution to the matter, and Senators WARNER and LEVIN's willingness to facilitate this agreement by accepting the amendment at this time. The efforts of all three Senators deserve the praise of the firefighting community.

As was the case in 2000, the Department of Defense authorization bill has become the vehicle of choice for the FIRE Act legislation. I am optimistic that the final result this year will be the same as it was then, concluding with passage of our amendment into law. I am proud to introduce this amendment with my friend and colleague from Connecticut and look forward to working to ensure that the Federal Government increases its commitment to the men and women who make up our local fire departments. We owe them and their service and dedication nothing less than our full support.

SCIENCE & TECHNOLOGY FUNDING LEVELS

Mr. SANTORUM. Mr. President, I rise today to engage the distinguished Senator from New Mexico, Senator JEFF BINGAMAN, concerning the Department of Defense Science and Technology—S&T—program. Senator BINGAMAN and I are both former members of the Senate's Committee on Armed Services and have a deep appreciation for the importance of the Department of Defense's S&T program in meeting current and future defense needs.

Mr. BINGAMAN. The Senator from Pennsylvania is correct in noting our strong support for the Department's S&T programs. During the 106th Congress, I introduced an amendment—SA 199—cosponsored by Senators SANTORUM, KENNEDY, and LIEBERMAN, to S. Con. Res. 20, the Senate's Budget Resolution for Fiscal Year 2002, that was designed to ensure the long-term national security of the United States through a robust Department of Defense S&T program. Additionally, during the 105th Congress, I introduced an amendment—SA 2999—cosponsored by Senators SANTORUM and LIEBERMAN, to S. 2057, the Fiscal Year 1999 National Defense Authorization Act, articulating a sense of the Senate on the ideal level of funding for our Department of Defense's S&T program.

Mr. SANTORUM. The Senator from New Mexico is correct. He has been a strong advocate for our Department of Defense S&T program for many years. It is worth noting that together, we have succeeded in raising the profile of these budget accounts and helped to influence the levels requested for the S&T program in the annual budget request submitted by this and other administrations. I also want to thank Senator BINGAMAN for his support for my amendment—SA 182—to H. Con. Res. 83, the Senate's Budget Resolution for Fiscal Year 2002, which sought to increase funding devoted to the Department of Defense's Basic Research—6.1—account. It is by investing in these budget accounts that we will reap the technology benefits that will sustain our military edge over our adversaries.

Mr. BINGAMAN. We also agree that by funding these vital programs at over 3 percent of the total Defense Department budget, we will be demonstrating a commitment and leadership in an area critical to U.S. national security. Past research carried out with S&T program funding has provided the foundation for protecting U.S. military personnel and ensuring U.S. technological superiority on the battlefield. Handheld translators, unmanned systems, thermobaric bombs, and laser-guided and global positioning systems are just a few examples of the many technologies resulting from S&T investments that are used today to remove personnel from harm's way, enhance

battlespace awareness, and address new threats.

Mr. SANTORUM. Additionally, we are united in advocating continued support for these critical programs so we can meet our national security needs of tomorrow. The Department of Defense's S&T program provides a unique contribution to the job of equipping and protecting our men and women in uniform and defending America. S&T funding supports education and training for future scientists and engineers—leading to technological advancements that shape defense technologies, including engineering, mathematics, and physical, computer and behavorial sciences. Throughout the decades of the 1950s, 1960s, 1970s and 1980s, the Department of Defense and other federal agencies sustained their commitments to these investments in American universities. This investment can be measured by the number of systems relied upon by America today to project power and maintain our interests around the globe.

Mr. BINGAMAN. Furthermore, American universities offer the Department of Defense the laboratories and knowledge base necessary to successfully complete this transformation objective. The Department of Defense has historically played a major federal role in funding basic research and has been a significant sponsor of engineering research and technology development conducted in American universities.

Mr. SANTORUM. Senator BINGAMAN is correct. For over 50 years, Department of Defense investment in university research has been a dominant element of the Nation's research and development infrastructure and an essential component of the United States capacity for technological innovation.

Mr. BINGAMAN. I thank Senator SANTORUM for his observations on the importance of robust Department of Defense S&T program funding, and I urge that we continue to advocate funding the S&T program at a level of at least at 3 percent of the total Department of Defense appropriation.

Mr. SANTORUM. The Senator is correct in his statement and I too support the 3 percent S&T program funding goal.

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.

## MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO THE SENATE AND HOUSE

Mr. FRIST. Mr. President, I would like to take a moment to thank all of the dedicated Members of the Senate family who poured their hearts into making President Reagan's final journey to the Nation's Capitol a dignified and fitting tribute.

Lawmakers and dignitaries from all corners of the globe, Supreme Court justices, Federal officials and hundreds of thousands of citizens made their way to the Rotunda last week to pay their final respects to our 40th President.

It was a solemn and stately event. Each moment radiated a sense of history. I would like to thank some of the Senate individuals whose hard work made last week possible: 1. Sergeant at Arms Bill Pickle; his deputy, Keith Kennedy; protocol officer, Becky Daugherty; Capitol information officer, Laura Parker; and the Sergeant at Arms staff; 2. Alan Hantman, the architect of the Capitol, and the Capitol Superintendent, Carlos Elias; 3. Terry Gainer and the Capitol Police who, under extraordinary pressure, maintained security with discretion and consideration; 4. Emily Reynolds the Secretary of the Senate; her deputy, Mary Suit Jones; and their hard working staff; 5. The Senate Chaplain Pastor Barry C. Black whose sonorous and reflective tributes captured the public's love for President Reagan; 6. All of the volunteers who handed out bereavement cards to the public, manned the condolence booths, and handed out water to the thousands of visitors waiting patiently to see the President; and 7. The Capitol Guide service which worked round the clock.

My sincere thanks also go to Chairman LOTT and Senator DODD. Their steady leadership over the proceedings was crucial.

Likewise, the President of the Senate and the President Pro Tempore presided over the Senate on this momentous occasion with dignity and distinction.

I also wish to extend my thanks to my colleagues in the House of Representatives. Throughout, both chambers worked closely and patiently to carry out a tribute that I think all would agree properly reflected and celebrated President Reagan's extraordinary legacy.

I specifically thank: 1. The Speaker and his dedicated staff; 2. The House Sergeant at Arms and doorkeeper, Bill Livingood; 3. The House chief administrative officer, Jay Eagen; 4. The Clerk of the House, Jeff Trandahl; and 5. The House Chaplain, Reverend Daniel P. Coughlin. His stirring remarks are now a part of America's history.

Finally, to the Reagan family: Through a bleak and solemn week-long procession, their love and respect for Ronald Reagan was a beacon to us all. The Reagan family showed an uncommon dignity and grace that raised us up and touched our hearts.

We will never forget their love. And we will never forget how Ronnie loved his Nancy, and how hard it was for her, even at the very last, to let him go.

Thank you to the Reagan family. And thank you to the man who led us so well and loved his country so deeply—Ronald Wilson Reagan, 40th President of the United States.

## TRIBUTE TO THE CAPITOL POLICE

Mr. REID. Mr. President, today I want to take a moment to both thank and commend our U.S. Capitol Police for their outstanding actions during the evacuation of the Capitol complex last week.

As we now know, the decision to evacuate was made on a moment's notice when a private airplane flew into restricted airspace and could not be contacted. Our Capitol Police put the lives of the people who work in Congress ahead of their own. The Capitol and surrounding buildings were vacated within minutes.

In addition to thousands of employees and Members of Congress, hundreds of dignitaries from around the world had come to the Capitol last Wednesday to pay their respects to President Ronald Reagan. The Capitol Police executed the evacuation with efficiency and professionalism.

Fortunately, the threat proved to be a false alarm, and it was again the Capitol Police who screened and helped each individual as they reentered the buildings.

Only a few weeks ago I had the honor of speaking at the re-dedication ceremony of the Capitol Police headquarters. This would be an honor for any Senator, but it is especially so for me, because I served as a U.S. Capitol Policeman years ago.

The Capitol Police force has changed quite a bit over the years. It was founded in 1828 with three nonuniformed watchmen. Before that, only one guard protected the Capitol.

Today, more than 1,300 professionally trained men and women serve as Capitol Police officers. Their challenges have obviously become more formidable, but their main focus still lies in protecting life throughout the complex of congressional buildings, parks, and streets.

I would like to take a moment to recognize 3 Capitol Police officers who have been killed in the line of duty: Sgt. Christopher Eney was killed on August 24, 1984, during a training exercise; Jacob ''J.J.'' Chestnut was killed on July 24, 1998, while guarding his post at the Capitol; and John Gibson was killed on July 24, 1998, while protecting the lives of visitors, staff, and the Office of the House Majority Whip.

The police headquarters building is now named in honor of these 3 fallen heroes. A few weeks ago, at the rededication ceremony, I had the opportunity to meet some of the children of these men, now grown. Speaking with them reminded me of the sacrifice that these officers and their families had made.

Likewise, the events of last week reminded me that our U.S. Capitol Police officers put their lives on the line every day, to protect all of us. For that we can never thank them enough.

## RUSSIA'S FALTERING DEMOCRACY

Mr. BIDEN. Mr. President, I rise today, regretfully, to discuss the faltering state of democracy in Russia. I say ''regretfully,'' because during my more than 31 years in the U.S. Senate, I have consistently striven to improve relations between our country and Russia.

For example, a few years ago, despite severe U.S. budgetary constraints and significant foreign policy differences with Moscow, I introduced legislation that when enacted substantially increased funding for Muskie Fellowships for graduate students from Russia.

During my time in the Senate—which has spanned the last decade of Brezhnev, the brief ruling periods of Andropov and Chernenko in the early 1980s, the lengthier and stormy tenures of Gorbachev and Yeltsin, and since 2000 the era of Vladimir Putin—I have always believed that a constructive relationship with Russia is in the best interest of that great country, and is a vital national interest of the United States.

During the Soviet period our ties were based overwhelmingly on strategic considerations. Moscow and Washington had huge, redundant nuclear arsenals that, if ever used, would have ''made the rubble bounce''—that is, would have gone a long way toward destroying life on this earth as we know it.

The focus of our diplomacy, particularly of our arms control negotiations, was to make that ultimate horror scenario impossible.

But we had no illusions about making the Soviet Union a genuine partner in anything more than in that narrow strategic sense. Whether or not one fully concurred with President Reagan's memorable description of the U.S.S.R. as an ''evil empire,'' no one could have asserted that it in any way resembled a democracy, anchored by the rule of law, with civil liberties and human rights for all its citizens.

In fact, after the signing of the Helsinki Final Act in 1975, the United States effectively utilized the so-called ''Basket Three'' of that document to publicly hold the Soviet Union accountable for its violations of human rights and civil liberties.

Great hopes for change accompanied the collapse of the Soviet Union at the end of 1991 and Boris Yeltsin's successor government in the Russian Federation. Although the lid did come off of the worst of state repression, Yeltsin's tenure was marred by widespread corruption, which discredited democratic reform in the eyes of many Russians.

Yet Yeltsin, for all his failings, did successfully make the difficult personal transition from communist to democrat. Given time, Russia's political system held—and still holds—the promise of evolving into a genuine democracy.

That potential, unfortunately, has not only not been utilized, it has been systematically stifled by Yeltsin's hand-picked successor, Vladimir Putin.

In his 4½ years in power, Mr. Putin, an intelligent and street-smart former agent of the KGB, has developed a system known as ''managed democracy.'' Aside from the unintended irony of this oxymoronic construct, in practice it is long on ''managed'' and short on ''democracy.'' In essence, Russians are witnessing a rollback of the civil liberties they enjoyed during the 1990s.

Both the 2003 parliamentary elections and the March 2004 presidential election were described as seriously flawed by international observers.

The Putin government has selectively and ruthlessly utilized its prosecutorial powers to silence incipient rivals and thereby intimidate other potential opponents. The most celebrated case is that of Mikhail Khodorkovsky, former head of Yukos Oil, Russia's most modern, Western-like private company. Mr. Khodorkovsky's principal sin appears to have been his belief that a wealthy man had the right to engage in Russian political life as a potential alternative to Putin by funding independent, non-governmental organizations.

The imprisonment and legal proceedings against Khodorkovsky have violated virtually every canon of fairness and legality. His trial on tax evasion charges, which opened on Wednesday in Moscow, was scheduled to be held in a cramped courtroom in a blatant move to restrict access to outside observers.

In a speech late in May, President Putin delivered an ominous warning to Russian organizations that defend democracy and human rights for allegedly serving ''dubious'' interests and receiving financial support from the West.

Putin has also used financial gimmicks to eliminate the major, independent national television stations in Russia, leaving only a handful with local audiences. Earlier this month the most popular and outspoken surviving Russian television journalist was fired.

As a result of this repressive media policy, Russian viewers have long since been denied objective coverage of world events, especially of the brutal war being waged by their army in Chechnya.

In that context, President Bush's answer last week to a question at a G–8 press conference in Sea Island, GA, is disturbing. The President said that the G–8 leaders were ''united by common values.'' He went on to explain: ''We do agree on a free press. We don't necessarily agree with everything the free press writes, but we agree on a free press.''

The ancient Greeks used irony as a rhetorical device by attributing a positive characteristic to negative reality. The Black Sea was called ''the peaceful sea'' precisely because, in actuality, it was so stormy. We moderns might call it ''the power of wishful thinking.''

I hope that is what President Bush was doing—subtly pushing Putin into behaving like a member of the G–8 club, to which Russia now belongs despite its mid-size economy, which, absent extraneous political criteria, would not qualify it for membership.

For although the Russian newspaper scene is still vibrant, as I have just described, its electronic media are anything but free. And, as in the majority of other countries, most citizens of the Russian Federation get their news from television, not from newspapers.

Some observers fear a crackdown on the print medium and perhaps even on foreign broadcaster journalists based in Russia.

As for supposed overall ''common values,'' the most recent report on Russia in ''Nations in Transit 2004,'' published by Freedom House, shows Russia slipping from poor to very poor during calendar year 2003 in 5 of 6 categories: electoral process; civil society; independent media; governance; and constitutional, legislative, and judicial framework. The only category in which it did not fall was corruption, and there it remained mired at an extremely poor level.

I hope, therefore, that Putin will not misconstrue President Bush's off-the-cuff answer in Sea Island as license to continue his own undemocratic domestic policies.

As several American commentators and newspaper editorials have discussed, Russia's inclusion in the G–8 since the late 1990s is not irreversible. Its economy certainly does not qualify it for membership, and if it persists in violating the ''common values'' to which it pays lip service, the United States and its democratic allies may decide to return to the G–7 format.

I hope it does not come to that.

I thank the Chair and yield the floor.

## PLEDGE OF ALLEGIANCE CASE

Mr. BROWNBACK. Mr. President, I would like to applaud the decision by the Supreme Court yesterday dismissing the Pledge of Allegiance Case and affirming a student's right to say the pledge with the phrase ''One Nation Under God.'' The majority decision concluded that the Court lacked jurisdiction over Mr. Newdow's claim of injury since Mr. Newdow is merely a noncustodial parent with no decision-making authority over his daughter's education.

The Court, of course, chose to sidestep the larger issue presented by the case. If you recall, Mr. President, the Ninth Circuit's stunning decision was deeply troubling to many Americans when it was first announced in 2000. The Ninth Circuit, unable to legally address the issue of relationship between the father and the daughter, simply decided that Mr. Newdow had a fundamental right to have his child shielded in public school from religious views that differ from his own.

Never mind that such a right has not been articulated before, and certainly not within the context of a noncustodial relationship, but more importantly, a right of such magnitude has

breathtaking implications for the future relationship between the Federal judiciary and public education. For one thing, any disenchanted parent similarly offended by what their children are taught in public schools could run to the Federal courts and clog the system with litigation. Mr. Newdow's objection to the Pledge of Allegiance is that it supports the historical fact that this Nation was founded on a belief in monotheism; the Pledge of Allegiance simply reflects that singular and important fact about this Nation and about us. As a matter of law, injury of the kind alleged by Mr. Newdow must be direct and palpable. Having an unorthodox interpretation of historical fact certainly does not rise to a level which would confer article III standing.

But even if we assume that Mr. Newdow had standing, the merits of Newdow's case are nonexistent as Chief Justice Rhenquist, O'Connor, and Thomas argues in their minority opinion. Recitation of the Pledge of allegiance in public schools is fully consistent with and appropriate within the context of the establishment clause of the first amendment to the United States Constitution. The words of the pledge simply convey the conviction held by the Founders of this Nation that our freedoms come from God. Congress inserted the phrase ''One Nation Under God'' in the Pledge of Allegiance for the express purpose of reaffirming America's unique understanding of this truth, and to distinguish America from atheistic nations who recognize no higher authority than the State. The Ninth Circuit's decision was problematic on several fronts.

Let me point out a few specifics. First, the court ignored the distinction that the Supreme Court historically has drawn between religious exercises in public schools and patriotic exercises with religious references. The Court repeatedly has said that the latter are consistent with the establishment clause. The voluntary recitation of the Pledge of allegiance is not a coerced religious act, and the Ninth Circuit's conclusion to the contrary is insupportable.

Second, the Ninth Circuit ignored the numerous pronouncements by past and present members of the Court that the phrase ''under God'' in the Pledge of Allegiance poses no Establishment Clause problems. It is one thing to identify isolated dicta with no precedential weight; it is something quite different to ignore, as the Ninth Circuit did, consistent and numerous statements from the Court's opinions all pointing to a single conclusion. The Ninth Circuit's refusal to heed the Court's previous statements about the pledge is simply inexcusable and is a glaring and continuing example of judicial activism run amok.

A decision to affirm the Ninth Circuit could have had ramifications extending far beyond the recitation of the Pledge of Allegiance in public schools. There is no principled means of distinguishing between recitation of the pledge, and recitation of passages from other historical documents reflecting the same truth. The Declaration of Independence and the Gettysburg Address that every student in this Nation is familiar with contain the same recognition that the Nation was founded upon a belief in God.

Should we, in a recitation of those seminal speeches, similarly delete any references to God? In fact, had the Ninth Circuit's decision been allowed to stand, it could have cast doubt about whether a public school teacher could require students to memorize portions of either one.

Additionally, much in the world of choral music would become constitutionally suspect, if it is performed by public school students. If the optional recitation of the Pledge of Allegiance violates the establishment clause, what would be the basis by which music teachers can have students perform any classical choral pieces with a religious message? The phrase ''under God'' in the Pledge of Allegiance is descriptive only. In contrast, much in classical choral music is explicitly religious. They would, under the Ninth Circuit's decision have a greater chance of being rejected.

In ruling that Michael Newdow could not sue to ban the Pledge of Allegiance from his daughter's school and others because he did not have legal authority to speak for her, the Court avoided the larger question of whether or not recitation of the pledge in a public school is an unconstitutional violation of the First Amendment proscription against the establishment of religion.

However, restrictions on religious freedom in the guise of preventing the establishment of religion have been eroding our freedoms and adversely affecting our culture. This began in 1962 in the Engel v. Vitale case, when 39 million students were forbidden to do what they and students had been doing since the founding of our Nation, and only a year later in the School District of Abington Township v. Schempp, the Court held that Bible readings in public schools also violated the first amendment's establishment clause. Then 1992, Lee v. Weisman removed prayer from graduation exercises, and the 2000 ruling in Santa Fe Independent School District v. Doe, prohibited student-initiated, student-led prayer at high school football games.

No legislative body affirmatively adopted any of these restrictions. In fact, the people's representatives—at both the Federal and State level—did precisely the opposite. For example, when Congress added the phase ''under God'' in 1954 to the Pledge of Allegiance, it did so with the explicit intention of fostering patriotism and piety. It was done to reflect the values of the American people.

Those values, Mr. President, have not changed. And the Court's ruling yesterday simply confirms what the American people have always known: acknowledging God in the public square is patriotic, wise, and good. It is not in conflict with our founding principles, or with our Constitution.

## COMBAT CASUALTY CARE

Mr. INOUYE. Mr. President, I rise today to recognize the courageous men and women of military medicine, whose efforts to preserve life on the battlefield must not go unnoticed. Since World War II, I have followed the advances in personal protection and combat casualty care which have changed the fate of thousands of our military men and women.

The improvements in battlefield protection have given our military the lowest levels of combat deaths in history. While there is still regrettable loss of life in Iraq and Afghanistan, the fact that we are savings hundreds of lives which could not have been saved in past operations is proof that these advances are paying off.

Historically, 20 percent of all war casualties resulted in death. Today, that rate has been cut in half. Additionally, the rate of total battlefield casualties has also declined by half.

Many advances have led to these decreases. Improved body armor, the placement of forward surgical teams, improved medical training and evacuations, in theatre assessments of unforeseen medical complications, and superior medical technology are just a few of the changes I want to address.

As we read about casualties in the press, one might not realize that much has changed. We read about injury or death by mortar or improvised explosive device. And, as in the past, when soldiers are injured, the first person they call out for is not their mother, not their sweetheart, or even God, but for a medic. But circumstances are different when that medic arrives today. Training of our medics has improved drastically. Today every medic is certified as an emergency medical technician. They are provided with improved medical kits with state-of-the-art medical equipment. The military unit on the ground has these additional capabilities and life saving techniques to improve combat care from the moment of injury.

A second major development in treating battlefield injuries is the placement of forward surgical teams closer to the front lines. These teams target the 15–20 percent of wounded who, without care within the first hour after wounding, would die before seeing the inside of a combat support hospital. Uncontrollable hemorrhage has been a major cause of death in previous wars. Today, the forward surgical teams are well equipped to identify and stop bleeding using a hand held ultrasound machine to identify internal bleeding. Advances in hemorrhage control dressings have also had a substantial impact on saving lives.

Circumstances were definitely a little different when I served during

World War II. After I was injured, it took 9 hours to get to a field hospital where they performed military trauma surgery and over 3 months before I made it back to the United States. I spent 11 months in a hospital that was essentially a converted hotel in Atlantic City waiting for my final surgery and another 9 months in a rehabilitation facility in Battle Creek, MI. All told, it was almost 2 years from the time I was injured until I was able to return home to Hawaii.

Today, military personnel injured on the battlefield can be transported from theatre to a military hospital in Europe in a matter of hours. Depending on the extent of the wounds, they can be flown back to the United States within days. The rapid, sophisticated treatment on the battlefield and expedited transfer to safety are two of the most striking differences between military medicine today and World War II.

The story of Private Jessica Lynch is an excellent example. Following her rescue from the Iraqi hospital, Army medics, Air Force aeromedical evacuation troops and Special Operations forces transported her thousands of miles, used three different aircraft, and provided care during her entire journey, until she reached the safety of an Army hospital in Landstuhl, Germany. This was all accomplished in fewer than 15 hours. This same approach has saved the lives of many other courageous, young heroes.

What remains a mystery is how to treat the unexpected. Many deaths are the result of disease or non-battle injuries. In March 2004, there were 595 evacuations from Iraq for disease or other non-battlefield injuries. The Army Medical Department has deployed special teams with expertise in areas such as leishmaniasis, pneumonia, mental health and environmental surveillance to respond to these types of injuries. Having their critical assessments and recommendations while our troops are still in theatre will hopefully enable the command to decrease these illnesses.

The good news is that we have already improved our rates on this front. In the Civil War, twice as many people died of disease than of battle wounds. In World War I, about 56,000 U.S. soldiers died of disease, 14,000 during World War II, but only 930 during the Vietnam War. And we continue to make progress.

Press reports have highlighted the suicide rates of our troops serving overseas, but little acknowledgement has surfaced on how the military is addressing this concern. In July 2003, the Army sent a team of mental health experts to study the issues facing our troops in Iraq. This team was assembled to assess the increase in suicides in Operation Iraqi Freedom, evaluate the patient flow of mental health patients from theater, and analyze the stress-related issues Soldiers experience in combat.

This was the first time a mental health assessment was ever conducted with soldiers in combat. I cannot stress the importance of the collection and analysis of this data and its potential to help the military address these issues at the earliest stages.

We have also learned a great deal about providing better protection to our forces. We are now experiencing less than half of the theatre evacuations for chest and abdomen wounds than was seen during World War II, Korea, and Vietnam because of body armor.

The 1991 Gulf War was the first major conflict in which all U.S. troops were provided body armor. At that time, the vests were made of Kevlar. They were capable of stopping shell and grenade fragments, but were a heavy 25 pounds to carry. The lighter interceptor body armor now used in Afghanistan and Iraq weighs only sixteen pounds and stops grenade fragments, 9mm slugs, and some rifle ammunition. The efforts placed in these advancements have paid off and should continue with renewed commitment.

But while these advances have drastically improved our casualty rates, injuries to the limbs are increasing. Historically, 3 percent of those wounded in action required some amputation. Today that rate has jumped to 6 percent in Iraq. This requires our attention. We must focus on technology to reverse this trend.

These are just a few of the advances in medical technology and treatment that are responsible for saving the lives of our military.

As we think about today's improvements, we should remember the men and women that served before this conflict. Nearly half a million men were permanently disabled by wounds during the Civil War. Their sacrifices led others to develop improvements in orthopedic surgery and the design of prosthetic limbs. It is important that we recognize these sacrifices and contributions and continue our commitment to further advances.

It is said that my generation was the greatest generation. But I have spent a great deal of time visiting our military personnel and must say that this generation is surpassing us by far. These men and women in uniform display the courage, strength, and devotion of our armed forces.

I thank the Chair for allowing me to recognize the men and women of our military and to pay particular attention to lesser known positive data coming from the Global War on Terrorism.

## CONFIRMATION OF PAUL STEVEN DIAMOND AND LAWRENCE F. STENGEL AS UNITED STATES DISTRICT JUDGES FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Mr. SANTORUM. Mr. President, I am pleased to submit this statement related to the Senate's unanimous confirmation of the nominations yesterday of Paul Steven Diamond and Lawrence F. Stengel as United States District Judges for the Eastern District of Pennsylvania after only a brief opportunity to speak on their behalf. First, I want to thank the President for their nominations and congratulate them and their families and to thank them for their willingness to serve Pennsylvania and our country.

Paul Diamond attended Hunter College-City University of New York and Columbia University where he graduated Magna Cum Laude in 1974. He received his J.D. from the University of Pennsylvania Law School in 1977. He served as an Assistant District Attorney in the Philadelphia District Attorney's Office from 1977–1980. Paul Diamond then served as a law clerk on the Pennsylvania Supreme Court to former Justice Bruce W. Kauffman, who now serves as a Federal judge on the United States District Court for the Eastern District of Pennsylvania. He returned to the Philadelphia District Attorney's Office until 1983. From 1983 until 1991 he was an associate and then a partner at Dilworth, Paxson, Kalish & Kauffmann in Philadelphia. Paul Diamond was an Adjunct Professor at Temple University School of Law from 1990–1992. From 1992 until the present he has been a partner at Obermayer Rebmann Maxmann & Hippel in Philadelphia.

Paul Diamond has written a book, Federal Grand Jury Practice and Procedure, and several articles on issues related to grand juries. He has extensive experience in general civil and criminal law practice areas and will be an excellent addition to the Federal bench.

I also want to extend my congratulations to Judge Lawrence F. Stengel who has served as a Common Pleas Judge in Lancaster County since 1990. Judge Stengel received a B.A. from St. Joseph's College and his J.D. from the University of Pittsburgh School of Law. His service on the Court was preceded by 10 years of legal practice, where he focused primarily on civil litigation matters as an associate at Dickie, McCamey & Chilcote, PC, and in private practice as a sole practitioner. He has also served as an adjunct professor at Franklin & Marshall College and Millersville University.

He has also served his community prior to legal practice as an English and Social Studies teacher at Lancaster Catholic High School. Judge Stengel was also a board member of Leadership Lancaster which assists young leaders with getting connected with community organizations. He has also served as a Guardian Ad-litem for abused children. As President of the Lancaster Bar Association, Judge Stengel formed a diversity task force to investigate ways to increase the number of minority attorneys practicing in Lancaster County and appointed a committee for the creation of the Lancaster Bar Association Foundation—a foundation whose primary purpose is to raise funds for enhancing the

delivery of services to underprivileged clients. I am pleased that he will be serving on the Federal bench. I want to thank my colleagues for their support for these nominations and again congratulate them and their families.

## SADIE BROWER NEAKOK

Ms. MURKOWSKI. Mr. President, in November of 2003, I was honored to join with the Senator from Maine, Ms. COLLINS, in speaking on the Senate floor about the need for a national museum honoring the contributions of women in American history.

Senator COLLINS and I took turns addressing the accomplishments of pioneering women from our respective States, who were breaking through glass ceilings long before society acknowledged that they even existed.

One of the women I discussed was Sadie Brower Neakok, an Inupiaq Eskimo woman, from Barrow on Alaska's North Slope. Sadie has the distinction of being the first woman to serve as a magistrate in the State of Alaska. Four years before the United States passed its landmark civil rights act, an Eskimo woman was sitting on the bench in the State of Alaska.

But her life was remarkable in so many other respects. For one thing, she was appointed in 1960, a year after Alaska was admitted to statehood and long before women, not to mention Alaska Native women, came to realize that a career in the law was even an option. She continued in that role for nearly 2 decades.

Second, she was not trained as a lawyer. She was trained as an educator at the University of Alaska Fairbanks.

Yet when Sadie took the bench everyone knew she meant business. You should know that in the early days, the bench was Sadie's kitchen table.

She was tough on offenders, but equally tough on Government officials when asked to enforce unjust laws and regulations.

Ignoring the neutrality and detachment our society expects from its judicial officers, Sadie took a great risk when in May, 1961 she challenged an arbitrary game regulation which permitted duck hunting only after the ducks had already flown south.

After one subsistence hunter was arrested for violating the law, she quietly organized the rest of the community to violate the same law. Nearly 150 people came forth bearing ducks and demanded to be arrested.

The game warden could not keep up with the violators. There was not sufficient space in the jail to house them all. Sadie refused to charge them. In response to the community emergency, the regulation was changed.

Reflecting on this well known episode of civil disobedience, the Alaska Commission on the Status of Women in 1983 noted, ''It was, perhaps, judicial activism at an awkward peak, but it brought necessary change for the people of Barrow.''

Finally, Sadie was already an accomplished teacher, a public health worker and a social worker before taking the bench. She was working on her fourth career before many women embarked on their first job outside the home.

This is not to say that Sadie ignored the home. She was the mother of 13 children and cared for numerous foster children. In fact, she is regarded as the mother of all Barrow, which today has a population of about 4,500 people. She was a renowned seamstress, capable of making virtually anything from cloth or fur. Her life makes the aspiration shared by many women of ''having it all'' seem like a cliché.

I have the sad duty of informing the Senate that Sadie Brower Neakok passed away last Sunday at the age of 88. When asked once what the best part of her work was, Sadie replied, ''gaining the respect of my people.'' Today in Barrow, AK, which remains an Eskimo community where people still speak their Native language, the community will turn out to demonstrate the depth of that respect.

If there were a National Women's History Museum, young women everywhere would know Sadie's name and be able to take inspiration from her story. Until then it will take a bit more effort for people to learn more about this remarkable woman.

Fortunately, Sadie's story is not lost to history. It is preserved for eternity in recorded oral histories and in the book ''Sadie Brower Neakok—An Inupiaq Woman'' by Margaret Blackman.

It was a privilege to honor the life of Sadie Brower Neakok on the Senate floor last November. Today we extend our sympathy to Sadie's family and to all of the Inupiaq people of the North Slope on the loss of a respected Elder and a great leader.

## HALT THE ASSAULT BUS TOUR

Mr. LEVIN. Mr. President, this week, the Million Mom March entered the tenth week of its ''Halt the Assault'' bus tour. The bus tour is traveling across America in a pink RV and making stops in nearly every major metropolitan area in the country. Their message is simple. They are asking Congress and President Bush to act now to reauthorize the assault weapons ban. They are in Illinois this week and they will be in my home State of Michigan at the beginning of August. I hope folks in each State will join them to help convey their important message.

In addition to banning 19 specific weapons, the ban makes it illegal to ''manufacture, transfer, or possess a semiautomatic'' firearm that can accept a detachable magazine and has more than one of several specific military features, such as folding/telescoping stocks, protruding pistol grips, bayonet mounts, threaded muzzles or flash suppressors, barrel shrouds, or grenade launchers. These weapons are dangerous and they should not be on America's streets.

The ban was designed to reduce the criminal use of military-style semiautomatic firearms, and it has done just that. According to statistics reported by the Brady Campaign to Prevent Gun Violence, from 1990 to 1994, assault weapons named in the ban constituted 4.82 percent of guns traced in criminal investigations. However, since the ban's enactment, these assault weapons have made up only 1.61 percent of the crime-related guns traced.

According to the Brady Campaign, throughout the 1980s, law enforcement officials reported that assault weapons were the ''weapons of choice'' for drug traffickers, gangs, terrorists, and paramilitary extremist groups. In response, our Nation's first responders asked Congress and President Bush to limit access to such weapons so that our streets and communities might be safer.

In order to keep these deadly, military-style weapons out of our communities, America's moms are joining gun safety groups and the law enforcement community in urging us to extend this critical gun safety law that is about to expire. Without action, firearms like UZIs, AK–47s, and other semiautomatic assault weapons could begin to find their way back onto our streets again.

Unfortunately, despite Senate passage of a bipartisan amendment that would have reauthorized the ban, it appears that this important gun safety law will be allowed to expire on September 13, 2004. The House Republican leadership opposes reauthorizing the law and President Bush, though he has said he supports it, has done little to help keep the law alive. I hope all of my colleagues will join me in thanking America's moms for their efforts in the battle to reauthorize the assault weapon ban.

## NOMINATION OF JOHN C. DANFORTH

Mr. HAGEL. Mr. President, I offer my strong support for John C. Danforth's nomination to be Representative of the United States to the United Nations.

Jack Danforth's career in public service dates back to 1969, when he became Missouri's Attorney General. He served in that position until 1976. He went on to serve three distinguished terms in the United States Senate, where he was chairman of the Senate Commerce Committee.

Since retiring from the Senate in 1995, Presidents of both political parties have called upon Jack to tackle complex problems. In 1999, then-Attorney General Janet Reno appointed him as a special counsel to investigate the 1993 deaths of 80 Branch Davidians in Waco, Texas. In 2001, President Bush appointed him as a special envoy to Sudan to help achieve peace between long-warring factions in that country. His service in Sudan reflects his varied talents and great capacity for diplomatic accomplishments.

Jack Danforth has earned the respect of both national and international leaders. His strong character, broad experience and varied accomplishments make him an excellent choice to once again serve America, this time in the United Nations at one of the most challenging times in history.

I endorse John C. Danforth's nomination and encourage the Foreign Relations Committee and Senate to offer their full support to this nomination.

## UGANDA

Ms. LANDRIEU. Mr. President, I wish to take this opportunity to report back to my colleagues on some observations during my recent visit to the nation of Uganda. The Congressional Coalition on Adoption is a bipartisan, bicameral caucus that enjoys the support of nearly 200 members of Congress. I am fortunate to cochair this organization with my friend and colleague, the Senior Senator from Idaho. Every year, we have been taking a delegation of members and staff to a nation which plays, or could play, a leading role in assuring every child a loving family. In recent years, we have lead delegations to Romania, Russia, China, and Guatemala. However, this month, we traveled to a spot that is truly special in the world—Uganda.

I am sad to say that if Americans know anything about Uganda, they know its tragic history. Since independence from Britain, Uganda has moved from tragedy to tragedy. Famously called the ''Pearl of Africa'' by Sir Winston Churchill, decades of misrule and grisly dictatorship left Uganda destitute and denied her proper role in the family of nations.

Yet, the spirit of the people of Uganda seems indomitable. Despite Amin, despite Obote, despite HIV/AIDS, despite brutal terrorists in the north, Ugandans continue with a joy of life that is almost impossible to accept in our own terms. The people there have an amazing capacity to look past their personal tragedies and continue to strive for a better life for their children.

Perhaps no man better captures the spirit of the people of Uganda than their current President, Yoweri Museveni. When Idi Amin staged his coup in 1971, now-President Museveni went into exile and began a history of resistance to dictatorship and misrule that has earned him comparisons with our own George Washington. Since his National Resistance Movement took power in 1986, Uganda has enjoyed the first sustained period of growth and stability that it has known since independence. As is often mentioned, President Museveni also exerted personal and farsighted leadership in the struggle against AIDS. The difference between this kind of personal leadership and its absence can be found by comparing the AIDS infection rates in Uganda with those of the rest of sub-Saharan Africa.

Thus, Uganda is a country with capable and proven leadership, with an industrious people who are eager for more contact with the United States, and with an amazing natural beauty that is unparalleled in my own experience. However, Uganda faces two enormous challenges, and that is what drew the Congressional Coalition on Adoption to the country. Sadly, both of these challenges have contributed to the creation of orphans. They are the epidemic of HIV/AIDS and the ongoing terrorism by the Lord's Resistance Army in northern Uganda.

Uganda has a population of 25 million people, and estimates suggest that nearly 10 percent of Uganda's population are orphaned. The good news is that Uganda has tackled one of the great orphan-generating disasters by acknowledging AIDS as a threat that can shake a country to its core. AIDS infection rates in some sections of Uganda were greater than 50 percent. From that devastating past, and with the good work of President Museveni and the First Lady, Janet Museveni, they have brought infection rates in Uganda to less than 6 percent.

However, we must continue our support for the President's ''ABC'' program that endorses abstinence, being faithful, and condoms in that priority. The three pronged approach has been very successful, and we must ensure that ideological differences do not undermine our support for a program with such an amazing success rate.

Additionally, we observed some very important clinical work with the drug Nevirapine. It is one of those small miracles that should do wonders in theory, but as a practical matter, the results are somewhat more troubling. Nevirapine has been shown to reduce mother-to-child HIV transmission rates by 50 percent. German pharmaceutical companies are providing the drug for free in Uganda. Nevertheless, because the healthcare infrastructure is so fragile and, in much of Uganda, nonexistent, Nevirapine has been subject to something called the ''cascade effect.'' Effectively, this means that since Nevirapine treatment requires a number of steps, at each stage we lose participation of mothers. So, when 6,000 women enter a clinic's door seeking treatment, we end up saving about four babies at a cost of $5,000 for each child. It is not that those children are not worth saving, we should do everything we can to save every child. However, when we tackle an enormous problem with finite resources, we must devote our efforts to the most effective treatments available.

As the administration unrolls its funding strategy for the global effort against AIDS, I think we must examine this question of mother-to-child transmission carefully. In addition to the cascade effect, we must be careful not to ''create'' orphans with our healthcare funding choices. If all of our efforts go into saving infants, and we do less to help the mothers, we have only added to Uganda's difficulties with a large orphan population.

But the real pressure creating new orphans in Uganda also deserves American attention. The Lord's Resistance Army, LRA, has been operating in Uganda since 1989. Suffice to say that its origins can be found in the delusional preachings of a self-proclaimed priestess, and since that time, it has lost whatever purpose it might have claimed. Fifteen years later, the LRA is lead by Joseph Koney, and his acts of cruelty can only rank with those of Hitler and Stalin. I heard personal testimony from an 11-year-old girl who was forced to kill her own mother in front of her siblings.

This rag-tag group of brigands, thieves, and terrorists prey on the weakness of children. They swell their own meager ranks of 2,000 men by abducting children out of their homes. Young children are made to carry equipment, frequently starving to death during their treks of hundreds of miles to the LRA bases in southern Sudan. Older males are forced to fight or be killed. Girls are brutally raped and used as sex slaves for years.

Child soldiers are regrettably not unique to Uganda. However, Koney's pathological desire to have children murder their own families and their fellow villagers leaves scars that are harder to heal than in other parts of the world.

Despite this reality, U.S. military assistance to Uganda is a pittance. It is certainly true that the Ugandan army has a checkered past. It is also true that President Museveni has intervened in other conflicts, such as Rwanda. Yet, whatever harm might conceivably come from greater military assistance the United States would provide Uganda, it is overwhelmed by the horror of the status quo. If there is a moral obligation to use military force to defeat terrorists anywhere on Earth, I cannot conceive of a better place for the use of force than against the LRA.

East Africa is an unstable and difficult neighborhood. Nearby Somalia is a failed state. Sudan has actively harbored terrorists, including Osama bin Laden. The Congo is an ongoing battleground. Rwanda experienced the worst genocide since Nazi Germany. This is a place that needs some attention and would benefit from a more robust American role. I am certain that we will need a real partner in this region—a partner in our fight against terrorism, an economic partner that demonstrates the success of the African Growth and Opportunity Act, and a regional model for the combat of AIDS. I believe that Uganda could be such a partner, and this Senator will pursue those steps available to me that would cement this relationship.

Finally, let me say a word about intercountry adoption. President Museveni graciously received our delegation, and we had the opportunity to explain our position. Namely, the coalition feels that children flourish with

loving families, but suffer in institutions. Of course, Uganda's traditional culture would normally absorb orphaned children in precisely the way we think is most appropriate—first with their family, secondarily within their community. However, we feel that where these social systems have been overwhelmed, as they have been in Uganda, a country should consider the option of international adoption. We believe that a nation can have no better ambassador to the United States than a child who has been adopted into a U.S. family and now has an active interest in their home country. We have seen it in China, Korea, and Russia. The process of intercountry adoption simply connects Americans to another country in a way they otherwise never would be.

So with these thoughts in mind, President Museveni has agreed to review our request that Uganda ratify the Hague Convention on Intercountry Adoption. International adoption is not going to be a solution to the very important tasks ahead of Uganda. However, in the lives of the children who find parents this way, intercountry adoption will be a true blessing.

I am also very pleased to announce that President Museveni and his wife Janet have kindly accepted my invitation to join us for a reception in their honor at my home. This will be an excellent opportunity for the Washington community to welcome this distinguished leader and build upon the foundations of partnership that have already been laid. I look forward to seeing many of my colleagues there.

## NATIONAL FLOOD INSURANCE ACT OF 1968

Ms. MIKULSKI. Mr. President, I rise to support S. 2238, the Flood Insurance Reform Act of 2004. I want to thank Senator SARBANES, my colleague from Maryland and a member of the Banking Committee that pushed this legislation through. Senator SARBANES and I worked together as ''Team Maryland'' to ensure that this legislation addressed many of the lessons learned in the aftermath of Hurricane Isabel.

In September 2003, my State of Maryland was devastated by Hurricane Isabel. This was the worst natural disaster in Maryland history. The people who live on the Chesapeake Bay and the many rivers leading into the Bay lost their homes, their possessions, and many lost their livelihoods.

The flooded communities have names like Bowleys Quarters and Millers Island, Bayside and North Beach, Kent Islands and Hoopers Island. The people who live in these communities are hard-working people. Many are retirees who scrimped and saved to buy these homes. Some are people I went to school with. Many of these communities are still struggling with the legacy of Isabel. Some Marylanders are still living in trailers which are really glorified campers.

Right after Hurricane Isabel swept through Maryland, Senator SARBANES and I went with Secretary Tom Ridge and Governor Ehrlich to see the damage, to talk to people, and to find out how we could work together with Marylanders to put their lives back together. When disaster strikes, we are Team Maryland and Team America, Federal and State officials, Democrats and Republicans. We saw houses moved off their foundations in North Beach. We walked the streets of Bowleys Quarters where children's toys and personal items were pushed into yards by three feet of flood waters. We saw mud more than a foot deep three blocks away from the water. We talked to a business owner on Kent Island who lost her restaurant only 6 months after she bought it.

I was incredibly moved by what I saw, not only the devastation, but the way these communities were pulling together. I heard about daring rescues from our intrepid first responders. Churches opened their doors to provide food and shelter. Neighbor was helping neighbor. I promised these communities that their Federal Government would help.

Unfortunately, the National Flood Insurance Program wasn't there the way it should have been. Today, nearly 9 months after Isabel hit, my constituents are still struggling to get the money that is owed to them. They are frustrated, confused, and frankly, many are just plain fed up. They feel like the insurance they paid for wasn't there when they needed it the most.

From Calvert County to Baltimore County to Anne Arundel County to Maryland's Eastern Shore, people told me they didn't understand what their flood insurance covered. Though their homes were damaged, they thought between homeowners insurance and flood insurance they would be covered. Nothing was explained to them when they bought these policies. They didn't know, for example, that the contents of their home wasn't covered without a separate policy. People thought if they had $200,000 worth of coverage on a home they bought for $50,000 that flood insurance would pay to replace the home. But when they put in their claims they found out they would only get a portion of what it costs to make repairs or rebuild.

Another serious problem was the way insurance agents handled people's individual claims. When people asked their insurance agents to explain things to them, they couldn't get a straight answer. That's because some of the insurance agents don't really know what these policies cover or how they really work. In Southern Maryland, some homeowners were able to get emergency advances on their claims. Others were told there was no way to get advances on their claims. Different agents gave different answers. In some cases, the same agent would give a different answer depending on the day. That is unacceptable.

When I heard these stories about claims being denied or shortchanged, I asked my constituents if they could appeal. They told me they didn't know. When they filed their claims, no one told them how to appeal, or even if an appeal was possible. My office became a clearinghouse for appeals. We asked the National Flood Insurance Program for instructions on filing an appeal; there wasn't one. So, I organized community meetings and appeals hearings. I brought FEMA and representatives from the National Flood Insurance Program to Maryland communities to explain to people what they needed to do to get a fair hearing.

Once Marylanders figured out their policies and filed their paperwork, the payments they were getting were not adequate to repair the damage. The flood insurance adjusters weren't using real world estimates for what it took to repair damages. In Bowley's Quarters, the adjuster gave people real lowball estimates for their repairs. So the community association asked a local contractor to come in for a second opinion. When his estimate was significantly higher, the community leaders went back to the adjuster. They told the adjuster what was needed to do the job. But people shouldn't have to go through all of this to get a fair appraisal and a fair reimbursement from insurance they paid for.

These experiences led to four recommendations that I submitted when I testified before the Banking Committee earlier this year. Senator SARBANES was instrumental in developing these recommendations and worked with the committee to make them part of this legislation. Helpful to this process were two reports that outlined the myriad of problems that surfaced after Hurricane Isabel struck Maryland. The first report was prepared by Maryland's former Insurance Commissioner, Steve Larsen, at the request of Baltimore County Executive, Jim Smith. The second report was prepared by Maryland's current Insurance Commissioner, Alfred Redmer. Many of the findings in those reports were similar to what I heard directly from constituents and were helpful in developing the following recommendations:

One, the National Flood Insurance Program must provide a clear and understandable outline of policies so policyholders understand what is covered and what is not. Two, the agents who sell flood insurance must understand what they are selling and how claims are processed so consumers don't get the runaround instead of answers. Three, there must be a clear way for policyholders to appeal their claims awards or appraisals of loss. Four, consumers need to know that the insurance they purchase will pay the real world cost of repairing damages or replacing their losses.

I support this bill because it addressed four key reforms that I believe will improve the National Flood Insurance Program. First, the bill directs

FEMA/NFIP to develop supplemental forms to the flood insurance policy. These supplemental forms will explain in simple terms the exact coverages being purchased by a policyholder, any exclusions from coverage that apply to coverages purchased, and an explanation, including illustrations, of how lost items and damages will be valued under the policy at the time of loss. Second, the bill directs FEMA/NFIP, in cooperation with the insurance industry to establish minimum training and education requirements for all insurance agents who sell flood insurance policies, publish these requirements in the Federal Register, and inform insurance companies and agents of the requirements. Third, the bill directs FEMA/NFIP to establish a formal appeals process with respect to claims, proofs of loss, and loss estimates relating to flood policies. Fourth, the bill directs the Comptroller General of the United States to conduct a study of the adequacy of the scope of coverage provided under flood insurance policies, the adequacy of payments to flood victims under flood insurance policies, and the practices of FEMA/NFIP and insurance adjusters in estimating losses incurred during a flood.

As the one year anniversary of Hurricane Isabel approaches, I believe we need to take aggressive steps to address the inadequacies of a flood insurance program that clearly wasn't there for people in their greatest time of need. This bill goes a long way in making the flood insurance program fairer, more transparent, and reliable.

## NOMINATION OF ANNE W. PATTERSON

Mr. HAGEL. Mr. President, I rise today to offer my strong support for Anne W. Patterson's nomination to be the U.S. Deputy Representative to the United Nations.

Anne has served the United States with distinction over the past 31 years, both at home and abroad. Anne began her career in 1973 as an economic officer in Ecuador, later rising to become U.S. Ambassador to Colombia and El Salvador. She has achieved a diverse set of accomplishments, which include mastering both Spanish and Arabic. Anne has served as Principal Deputy Assistant Secretary and Deputy Assistant Secretary of Inter-American Affairs and as office director for the Andean countries. She is currently the Deputy Inspector General of the Department of State.

Anne's commitment to excellence has been recognized by her colleagues and superiors at the State Department. She twice received both the State Department's Superior Honor Award and its Meritorious Honor Award. The Government of Colombia awarded her with the Order of the Congress and the Order of Boyaca. She was also recognized by the Government of El Salvador with the Order of Jose Matias Delgado.

Anne's wide array of experiences and commitment to service make her an excellent choice to serve America at the United Nations. I endorse Anne W. Patterson's nomination and encourage the Foreign Relations Committee and Senate to offer their full support to this nomination.

## TRIBUTE TO THURSTON ESCO WOMBLE

Mr. LOTT. Mr. President, when we dedicated the National World War II Memorial and commemorated the 60th anniversary of D–Day, much was made of the fact that this Nation loses an average of over 1,000 World War II veterans every day. Just last week, we honored the passing of one of the greatest members of that great generation, President Ronald Wilson Reagan.

I want to take this opportunity to recognize the passing of another great member of that great generation, Thurston Esco Womble. When President Reagan spoke at the 40th anniversary of D–Day, he memorably referred to the assembled veterans as ''the boys . . ., the heroes who helped end a war.'' Thurston Womble was one of those boys, one of this Nation's unsung World War II veterans who helped ensure the United States of America maintained its freedom and way of life during a very difficult time in our Nation's history.

Mr. Womble's service began prior to Pearl Harbor, when he enlisted in the Navy in March, 1941. By that October, he had gone through the Metalworkers School in Norfolk, VA. Womble was soon assigned to duty on the U.S.S. *Cincinnati* (CL–6), engaged in patrol and convoy duty in the western Atlantic and Caribbean, blockading occupied French men-of- war, and searching for German blockade runners.

In November, 1942, *Cincinnati* assisted in the interception and destruction of the German blockade runner S.S. *Annalise Essberger*. Although the German crew scuttled their ship, a boarding party reached it in time to take all 63 crew members prisoner before the blockade runner sank. Early in 1944, *Cincinnati* served as escort flagship for three convoys transporting men and equipment from New York to Belfast in preparation for the invasion of Normandy. She subsequently participated in the assault on Southern France and patrolled South Atlantic shipping lanes until the war in Europe ended.

But Thurston Womble's naval service did not end there. After the war ended, he went back to school at the Philadelphia Navy Yard and graduated as a boilerman. He was then assigned to duty aboard U.S.S. *Lake Champlain* (CV–39), one of our newly built aircraft carriers assigned to so- called ''Magic Carpet'' duty, bringing veterans of the European Theater back home. Womble was aboard in November, 1945, when *Lake Champlain* crossed the Atlantic in 4 days, 8 hours, 51 minutes, a record which held until surpassed by the U.S.S. *United States* in 1952. He was in charge of lighting off the boilers in *Lake Champlain*'s #1 Fireroom for that historic transit.

On February 18, 1950, in Quincy, MA, Womble married Olive Bates Merrill. They became the parents of Noreen, who is a high school teacher in Inverness, FL, and Eric, who served as my national security adviser and military legislative assistant for 7 years.

In the years after World War II, through the Korean Conflict, and up until 1960, Womble served on a veritable parade of U.S. Naval vessels: U.S.S. *Beverly W. Reid* (APD–119), U.S.S. *Houston* (CL–81), U.S.S. *Fargo* (CL–106), U.S.S. *Bataan* (CVL–29), U.S.S. *San Marcos* (LSD–25), U.S.S. *Fort Mandan* (LSD–21), U.S.S. *Laning* (APD–55), and finally, U.S.S. *Saratoga* (CVA–60).

Womble rose in rank and responsibility to become a Boiler Technician Chief Petty Officer and Leading Chief of the Boilers Division aboard *Saratoga*. His commanding officers repeatedly cited, not only his mechanical abilities and technical skills, but his energy, enthusiasm, and his outstanding and inspirational leadership in performing tasks ''not previously considered within the capacity of ship's force personnel.'' Truer words were never spoken than in 1960, when his commanding officer wrote, ''The Navy will realize a great loss when Womble retires this coming August.'' That was when Womble became a fleet reservist and started a second career.

Womble's Navy career probably wasn't what his parents, Huey Clayton and Thelma Esco expected when he was born in Autauga County, AL, on August 16, 1922. But the experience of being raised in rural Alabama in a close knit family taught Thurston the values that carried him through a long and honorable Naval career.

Following his active-duty service, he enrolled in Jones College in Jacksonville, FL, to study business management and worked 13 years in Mobile, AL, as the representative for the Royal Insurance Companies, specializing in employee protection and workplace safety. In 1980, he became Sales Manager and Quality Control Manager for G&V Industrial Contractors, also in Mobile, AL. Thurston then served as Director and Chief Boiler and Pressure Vessel Inspector for my home State of Mississippi. All in all, it seems clear to me that Womble carried his experience as the son of a carpenter, fisherman and farmer, as well as his devotion to his Navy shipmates, into a career of devoted and humble service to the people and communities in Mississippi and Alabama.

During an active and reserve career that spanned 30 years, Thurston was awarded the Navy Occupation Medal; European Clasp, American Defense Service Medal; American Area Campaign Medal; European-African-Middle Eastern Campaign Medal; World War II Victory Medal; Korean Service Medal;

National Defense Service Medal; and six Good Conduct Awards.

Thurston Womble's final days where spent with the family and friends he loved so much—and doing what he enjoyed most, golfing and fishing. He is survived by his wife of 54 years, Olive, their children, Noreen and Eric, Eric's wife Wendy and grandchildren, Melissa and Matthew. I extend my sincere condolences to the entire Womble family on their loss. I also want to thank Thurston for his dedicated service to our country and for setting an example that the rest of us can only hope to emulate; our great Nation owes him a debt of gratitude.

## LIEUTENANT COLONEL MICHAEL J. DELANEY

Mr. WARNER. Mr. President, I rise today to honor Lieutenant Colonel Michael J. Delaney of our Army's Office of Legislative Liaison. Lieutenant Colonel Delaney has distinguished himself as an outstanding American soldier from the great State of Virginia and will soon complete over 23 years of selfless service to the Nation in the United States Army. His dedication to Soldiers, commitment to excellence, and performance of duty has been extraordinary throughout his career and, especially over the past 4 years, has cemented the positive relationship between Congress and the U.S. Army. He will retire on August 1, 2004.

Over his 23 years of selfless service, Lieutenant Colonel Delaney served in a succession of command and staff positions worldwide. As a junior officer, he stood at the forefront of freedom during the Cold War in Germany. From the Cold War frontline, Lieutenant Colonel Delaney earned his wings as an aviator and qualified on a variety of rotary wing and fixed wing aircraft. During Desert Shield and Desert Storm, Lieutenant Colonel Delaney commanded an aviation unit based at Fort Belvoir. Despite the wide dispersion of his unit throughout the combat theater, they were able to successfully accomplish their mission due, in no small part, to his exceptional and inspirational leadership. Lieutenant Colonel Delaney has since served in a variety of positions of increasing responsibility.

For the past 4 years, Lieutenant Colonel Delaney has served as a congressional liaison for the U.S. Army. Perhaps this assignment was pre-ordained, as Lieutenant Colonel Delaney's wife, the former Susan Fanning, served as staff to Senator Paul Laxalt of Nevada. His mother-in-law, Shirley Fanning, also has a history with the Senate as she served on the staffs of Senators Everett Dirksen and Strom Thurmond for 25 years. Lieutenant Colonel Delaney's work as a legislative liaison and as the Chief of the Programs Division enabled the Army to provide this Congress the information we need to accomplish our constitutional duties. His efforts have been exceptional and noteworthy in working with Congress during a critical time as the Army undertook transformation, in the aftermath of the 9/11 terrorist attacks, and during our current efforts with the Global War on Terrorism. Throughout this critical time Lieutenant Colonel Delaney has fostered a personal relationship between Congress and the U.S. Army.

Lieutenant Colonel Delaney holds degrees from George Mason University, B.A., 1981, and the Naval War College, M.S., 1996. His military awards include the Legion of Merit, the Meritorious Service Medal, and the Master Aviator Badge.

Lieutenant Colonel Delaney represents the epitome of what the Army seeks in a congressional liaison and the country expects from our officers. His service to the Nation has been exceptional, and Lieutenant Colonel Delaney is more than deserving of this recognition.

## ROBERT A. RIESMAN

Mr. CHAFEE. Mr. President, I rise today to honor the life of Robert A. Riesman, who, sadly, passed away on June 2 in Providence, RI.

Robert Riesman was a Renaissance man and a prominent Rhode Islander, who succeeded in and devoted himself passionately to all aspects of his life. He was a decorated soldier, a successful businessman, and a leader in Rhode Island politics. He was a philanthropist, a dedicated man of faith, and a devoted father and husband.

But my own words cannot fully convey the value of Bob Riesman's character and achievements. This can best be expressed by Mr. Riesman's close friend and my esteemed colleague, Senator JACK REED, whose eloquent eulogy of June 6 describes Mr. Riesman in the most human terms.

Therefore, Mr. President, I ask unanimous consent that Senator REED's eulogy be printed in the RECORD.

IN MEMORY OF ROBERT A. RIESMAN

Last Thursday, Richard Licht and I spoke. We quickly concluded that, outside our own families, Bob Riesman was the finest man that we had ever met. Then, we also quickly concluded that we tend to give our families a little extra credit.

Bob Riesman was my hero.

He lived his life heroically. He lived with honor and with a commitment to high ideals. He pursued wisdom. He cherished family and friends. He set an example of decency and integrity and modesty. He time and time again entered the arena to be part of the great issues that shaped his generation and shaped our lives. But, he never forgot that life is little things, too: acts of kindness, moments of humor, sharing life's joys and disappointments with family and friends.

He was an American hero.

He joined the Field Artillery at Camp Ethan Allen in Vermont many months before Pearl Harbor. He had just graduated from Harvard. Bob was always very proud of his Harvard diploma, but declared that he was educated at the Boston Latin School.

He served with the First Infantry, his beloved ''Big Red One''. He fought through North Africa and Sicily. His soldiers admired his fearlessness and his authenticity. For his courage under fire, he was awarded the Silver Star. For his wounds, he was awarded the Purple Heart. Because of these wounds, he had to leave the First Division and he became an intelligence officer with the First Army. The last days of the war found him as a staff officer in Paris.

We always spoke together about the Army. Every conversation in some way or another touched on our youthful and lifetime devotion to the Army. Bob seldom, if ever, talked about the difficult moments. He recalled the camaraderie. He spoke of his admiration and respect for Sergeant Vic Lister and the other American soldiers that he led. He spoke about the leaders that he admired and those he found lacking. We both reveled in those memories of soldiers and soldiering, he knowing far better than I the terrible cost of war.

Bob Riesman saw the horror of war but refused to surrender his spirit to its brutality. And having seen that horror and bearing the memory forever of those young soldiers who never returned, Bob's return was not simply an occasion for celebration. It was an opportunity and an obligation to engage in another struggle; the struggle of a committed citizen to build a just and decent society in America and to be a force for peace and justice around the world.

And, Bob never wavered from that commitment.

Bob Riesman was a man of great faith and great tolerance.

His parents taught him to cherish his Jewish faith and act on this faith to serve his neighbors and his community and his country. Bobs faith was more than just a theological exercise. It was for him a summons, not just to reflection, but also to action.

Bob Riesman was my friend.

To sit by him and to feel the comfort of a kindred spirit, to listen and learn, to trace and retrace the days of our lives, to share good wine and good conversation, to know the feeling of unqualified support and affection was a precious and enduring gift to me.

On one memorable evening, we rode together, just the two of us, back from West Point. We had been up for the day to visit the newly dedicated Jewish Chapel at West Point. Bob and I attended services with the Cadets and then had supper with them. It had been a splendid day for the both of us, but a special day for Bob, uniting both his faith and his Army. In the nighttime drive, we spoke of many things. At one point, we began to discuss William Butler Yeats. Bob, as he often did to my amazement, began to recite from memory passages not only from Yeats, but W. H. Auden's famous lines:

Earth receive a honored guest
William Yeats is laid to rest

Today, earth receives another honored guest.

Bob taught me so much and, along with my Father and Mother, set an example of what, on my best day, I might hope to be.

His approval meant the world to me. I recall those times when we spoke and he was particularly pleased by something he had read or heard about me. He would say ''my boy, you are a credit to the Regiment.''

In a life of extraordinary achievement, Bob's greatest achievement was his marriage to Marcia and their wonderful children and grandchildren. Marcia and Bob were best friends as well as husband and wife. To watch them was all you needed to know about respect and commitment and deep and abiding love.

Bobby and Jeanie are their parents' pride. Whenever I asked about either of them, Bob's eyes would light up and his voice would resonate with uncontained joy and pride. This reaction was only exceeded when we spoke about Abe and Clare.

At this moment, I know we all wish for one thing, to have a few minutes again with Bob, to be with him before the fire on Freeman Parkway or watching the sun set in Middletown, to feel the comfort of his presence, to know that in a life that can mean there was at least one who was noble. But, that cannot be.

And knowing this, our hearts would surely break save for one thing. Bob made us stronger and better by his life. He has given us the example and the ability to carry on. And, we will.

Dear friend, I shall miss you.

Dear friend, ''you have been a credit to the Regiment.''

## ADDITIONAL STATEMENTS

### HONORING THE ACCOMPLISHMENTS OF DANIELLE MILLER

● Mr. BUNNING. Mr. President, I pay tribute and congratulate Danielle Miller of Louisville, KY on being named a distinguished finalist for the Prudential Spirit of Community Awards. This award honors young people in middle level and high school grades for outstanding volunteer service to their communities.

Danielle Miller founded a service organization called the ''National Awareness Committee'' to provide clothing, books, and other needed items to members of the Lakhota Sioux Nation living on a reservation in South Dakota. Danielle became aware of the Lakhotas needs during a school presentation by the Native American Support Effort—NASD—in the eighth grade, and became a volunteer. Although she was too young to go on a mission to the reservation, she realized she could accomplish a great deal in her community.

Danielle Miller planned and organized five collection drives at local schools and in nearby communities, and gathered enough clothing, blankets, kitchenware, bicycles and books to fill a 52-foot truck. She recruited volunteers to help sort, pack, and load the donations, and personally accompanied the shipment to the Rosebud Reservation in southern South Dakota. Danielle plans to make a documentary film that will be used to make even more people aware of the Lakhota situation.

The citizens of Louisville are fortunate to have a young lady like Danielle Miller in their community. Her example of dedication, hard work and compassion should be an inspiration to all throughout the entire Commonwealth.

She has my most sincere appreciation for this work and I look forward to her continued service to Kentucky.●

### MG EDWARD MECHENBIER

● Mr. DEWINE. Mr. President, today I wish to share with my colleagues a story about a wonderful American who I have had the privilege of personally knowing for many years. I am talking about MG Ed Mechenbier. I have had the honor of knowing him as a friend and as a true patriot of the American spirit and soul. On June 30, 2004, MG Ed Mechenbier will celebrate his retirement from the United States Air Force Reserve following a brilliant military career that began in 1964 when then Cadet Mechenbier entered the United States Air Force Academy.

My friend Ed Mechenbier is a very humble man, not known for patting himself on the back or openly touting his many accomplishments. But, he is a hero in many respects. He is a man who is driven by a sense of duty, a sense of honor, and a sense of country.

In June 1967, Ed Mechenbier found himself flying an F4C Phantom II fighter while assigned to the 390th Fighter Squadron, Da Nang Air Base, South Vietnam. On June 14, 1967, Ed was assigned a strike mission against the Vu Chu railroad near Kep, approximately 30 miles northeast of Hanoi. This flight was the 80th mission for then 1LT Ed Mechenbier. June 14, 1967, also marks the day that Ed became a Prisoner of War after his aircraft suffered a direct hit from a surface to air missile. Little did he know that when he began his 80th mission that he would not leave the Hoa Lo prison, which is also known as the ''Hanoi Hilton'' for the next five years, eight months and four days.

The stories that our former POWs describe remind us of the tremendous fighting spirit and sense of survival that distinguish and define the modern day American warrior. February 12, 1973, became a day of freedom for Ed and many other POWs who were released to return with honor to the hallowed soil of the United States. Upon return home, Captain Mechenbier was awarded the Silver Star with the Oak Leaf Cluster for his resistance to demands by the North Vietnamese for information, confessions, and propaganda material. In addition, Captain Mechenbier was awarded the Bronze Star with distinction for his efforts to conduct himself strictly in accordance with the Code of Conduct during his capture and imprisonment. The POW credo ''Return with Honor'' is exactly what Ed Mechenbier did. Throughout his imprisonment, he did not lose his fighting spirit. He did not lose his sense of hope. And, he did not fail to remain anything, but a shining example of a warrior whose duty assignment had been temporarily changed.

The irony of this story continues and on that day in February 1973, an Air Force C–141 Starlifter had been dispatched to the Gia Lam Airport in Hanoi, North Vietnam. To the casual observer, the tail number of that aircraft, 66–0177 is insignificant. Historically, however, that identification number is very important because it was the first U.S. aircraft to leave North Vietnam with former POWs as passengers. On board that aircraft, which was affectionately dubbed the ''Hanoi Taxi,'' was former POW Captain Mechenbier. Throughout the process of returning former POWs to the United States, the ''Hanoi Taxi'' was a vital resource as were many other aircraft that were needed to accomplish such an honorable mission. In the years following February 1973, the Hanoi Taxi's history and legacy had been temporarily forgotten while the aircraft carried out a long and proud period of service within the Air Force fleet. Today, over 30 years later, the Hanoi Taxi is still flying airlift missions for the 445th Airlift Wing at Wright-Patterson Air Force Base in Dayton, OH.

At the same time, the life of Ed Mechenbier has also moved forward. Following several assignments that include flying with the 4950th Test Wing and the 162nd Tactical Fighter Squadron, the young Air Force Academy cadet of 1964 is now leaving military service as a major general in the United States Air Force Reserve. Through the many promotions and the many assignments, Ed never forgot who he was and his keen sense of perspective tends to bring calmness in times of difficulty.

Several years ago, as a member of the 445th Airlift Wing, Ed reunited with the Hanoi Taxi in his capacity as a member of the United States Air Force Reserve. The historic aircraft and the former POW, who was once a passenger on the aircraft, became one of its pilots. Recently, Ed Mechenbier made his final flight as a command pilot having accumulated more than 3,500 hours flight time in several military aircraft. The final flight was more than just a trip around the traffic pattern—the final mission was one that would take him half way around the world to land at the Noi Bai airport in Hanoi. The mission was to return to American soil the remains of American service members who had been missing in action during the Vietnam era and recently recovered from central Vietnam by U.S. military officials. On this mission, the Hanoi Taxi once again returned to Vietnam and the former passenger, Ed Mechenbier was at the controls of the aircraft. Once again, the Hanoi Taxi returned to freedom the remains of fallen comrades from a war that has not been forgotten.

During a repatriation ceremony that was conducted prior to departure for return to the United States, Ed Mechenbier said this to those who gathered to honor the fallen comrades: ''For those of us who were fortunate enough to come home, I think we owe a little bit to all the families—to help them make the closure on that end.'' The last operational mission was carried out in the same manner that Ed Mechenbier has conducted himself since 1964—with honor, with pride, and with a tremendous sense of duty.

On June 30, 2004, MG Ed Mechenbier and several hundred of his friends will gather to celebrate his retirement. Even though retirement signifies an ending of sorts, his legacy of excellence, commitment, patriotism, and

dedication to ''completing the mission'' will remain long after his retirement. The legacy that he leaves behind will inspire generations well into the future.

I am proud of Ed Mechenbier. I am proud of his accomplishments, but perhaps more importantly, I appreciate his unwavering sense of duty, honor, and country for it is those values that define the warrior spirit. I thank him for the many sacrifices he has made for our great Nation, and I join with all Ohioans and the members of this Chamber in wishing MG Ed Mechenbier a happy and successful retirement. May God bless him and his family as they enter this new phase in their lives.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 2:06 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, in which it requests the concurrence of the Senate:

H.R. 4513. An act to provide that in preparing an environmental assessment or environmental impact statement required under section 102 of the National Environmental Policy Act of 1969 with respect to any action authorizing a renewable energy project, no Federal agency is required to identify alternative project locations or actions other than the proposed action and the no action alternative, and for other purposes.

H.R. 4517. An act to provide incentives to increase refinery capacity in the United States.

---

At 6:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4503. An act 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.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4513. An act to provide that in preparing an environmental assessment or environmental impact statement required under section 102 of the National Environmental Policy Act of 1969 with respect to any action authorizing a renewable energy project, no Federal agency is required to identify alternative project locations or actions other than the proposed action and the no action alternative, and for other purposes; to the Committee on Environment and Public Works.

H.R. 4517. An act to provide incentives to increase refinery capacity in the United States; to the Committee on Environment and Public Works.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–7981. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model SAAB 2000 Series Airplanes; Doc. No. 2002–NM–259'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7982. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Model Hawker 800XP Airplanes; Doc. No. 2002–NM–277'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7983. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Gulfstream Aerospace LP Model 1125 Westwind Astra Series Airplanes; Doc. No. 2001–NM–402'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7984. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC 8 101, 102, 103, 106, 201, 301, 311, and 315 Airplanes on Which Engine Oil Coolers Have Been Installed per LORI Inc. Sup Type Cert. SA8937SW; Doc. No. 2003–NM–222'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7985. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 400 and 400D Series Airplanes; Doc. No. 2003–NO–93'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7986. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC 8 102, 103, 106, 201, 301, 311, and 315 Series Airplanes; Doc. No. 2004–NM–38'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7987. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dornier Model 328–300 Series Airplanes; Doc. No. 2003–NM–121'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7988. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727 Series Airplanes; Doc. No. 2002–NM–273'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7989. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dornier Model 328–300 Series Airplanes; Doc. No. 2003–NM–138'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7990. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Company CF6–80E1 Model Turbofan Engines; Doc. No. 2001–NE–45'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7991. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC 7 100 Series Airplanes; Doc. No. 2003–NM–153'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7992. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Honeywell International Inc. TPE331–10 and –11 Turboprop Engines; Doc. No. 2003–NE–02'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7993. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Model 1900C Airplanes; Doc. No. 2003–CE–27'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7994. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney JT9D 3A, 7, 7A, 7AH, 7F, 7J, 20, and 20J Turbofan Engines'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7995. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Holdrege, NE; Doc. No. 04–ACE–25'' (RIN2120–AA66) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7996. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Minden, NE; Doc. No. 04–ACE–26'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7997. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Superior, NE; Doc. No. 04–ACE–30'' (RIN2120–AA66) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7998. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Oshkosh, NE; Doc. No. 04–ACE–27'' (RIN2120–AA66) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7999. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model SAAB Model SF340A and SAAB 340B Series Airplanes; Doc. No. 2002–NM–146'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8000. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Engine Components Inc (ECi) Reciprocating Engine Cylinders; Doc. No. 2004–NE–07'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8001. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 8 70 and 70F Series Airplanes; Doc. No. 2001–NM133'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8002. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS355E, F, F1, F2, and N Helicopters; Doc. No. 2003–SW–56'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8003. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS332C, L, and L1 Helicopters; Doc. No. 2002–SW–45 CORRECTION'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8004. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model SAAB 340B Series Airplanes Equipped with Hamilton Sunstrand Propellers; Doc. No. 2002–NM–200'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8005. A communication from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Shipping-Technical Amendments'' (RIN2133–AB59) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8006. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model SAAB 2000 Series Airplanes; Doc. No. 2002–NM–261'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8007. A communication from the FMCSA Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Parts and Accessories Necessary for Safe Operation; Fuel Systems'' (RIN2126–AA80) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8008. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers, CC Doc. No. 96–262; Petition of Z-Tel Communications, Inc. For Temporary Waiver of Commission Rule 61–26(d) to Facilitate Deployment of Competitive Service in Certain Metropolitan Statistical Areas'' (FCC04–110) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8009. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Crystal Beach, Lumberton, and Winnie, Texas and Vinton, Louisiana'' (MB Doc. No. 02–212) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8010. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Cameron, First Mesa, Flagstaff, Dewey-Humboldt, Parker, Bagdad, Globe, Safford, Grand Canyon Village, Gilbert, and Chino Valley, Arizona'' (MB Doc. No. 02–73) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8011. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Ashland, Coaling, Cordova, Decatur, Dora, Hackleburg, Hobson City, Holly Pond, Killen Midfield, Scottsboro, Sylacauga and Tuscaloosa, Alabama, Atlanta, Georgia, and Pulaski, Tennessee'' (MB Doc. No. 03–77) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8012. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Ocilla and Ambrose, Georgia'' (MB Doc. No. 03–246) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8013. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Littleville and Russelville, Alabama'' (MB Doc. No. 04–12) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8014. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Linden and Marin, Alabama'' (MB Doc. No. 03–162) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8015. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations: Colby, KS0'' (MB Doc. No. 04–11) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8016. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Mt. Vernon and Okawville, Illinois, St. Louis, Missouri'' (MB Doc. No. 03–196) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8017. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Encinal, Texas'' (MM Doc. No. 02–349) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8018. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Post, O'Donnell, and Roaring Springs, Texas'' (MM Doc. No. 01–127) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8019. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations: Bloomington, IN'' (MM Doc. No. 03–230) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8020. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992: Direct Broadcast Satellite Public Interest Obligations Sua Sponte Reconsideration'' (FCC 04–44) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8021. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Chase City, VA, Creedmoor, Ahoskie, Gatesville, and Nashville, NC'' (MB Doc. No. 03–232) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8022. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Glasgow and Bowling Green, Kentucky'' (MB Doc. No. 04–42) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8023. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Arlington, The Dalles, Moro, Fossil, Astoria, Gladstone, Portland, Tillamook, Coos Bay, Springfield-Eugene, Manzanita, and Hermiston, Oregon; Covington, Trout Lake, Shoreline, Bellingham, Forks, Hoquiam, Aberdeen, Walla Walla, Kent, College Place, Long Beach, and Ilwaco, Washington'' (MB Doc. No.) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8024. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations: Jackson, MS'' (MM Doc. No. 01–43) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8025. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations: Anniston, AL'' (MB Doc. No. 03–229) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8026. A communication from the Attorney Advisor, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of the Commission's Rules Regarding Dedicated Short-Range Communication Services in the 5.850–5.925 GHz Band'' (5.9GHz Band) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8027. A communication from the Legal Advisor, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Part 97 of the Commission's Rules Governing the Amateur Radio Services'' (FCC04–79) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Appropriations, without amendment:

S. 2537. An original bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes (Rept. No. 108–280).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2013. A bill to amend section 119 of title 17, United States Code, to extend satellite home viewer provisions.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs:

*Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

By Mr. HATCH for the Committee on the Judiciary:

Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## 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. GRAHAM of Florida (for himself and Mr. DURBIN):

S. 2535. A bill to amend title XVIII of the Social Security Act to modernize the medicare program by ensuring that appropriate preventive services are covered under such program; to the Committee on Finance.

By Ms. COLLINS (for herself and Mr. WYDEN):

S. 2536. A bill to enumerate the responsibilities of the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, to require the Inspector General of the Department of Homeland Security to designate a senior official to investigate civil rights complaints, and for other purposes; to the Committee on Governmental Affairs.

By Mr. COCHRAN:

S. 2537. An original bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 2538. A bill to provide a grant program to support the establishment and operation of Teachers Institutes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. DOMENICI, and Mr. SMITH):

S. 2539. A bill to amend the Tribally Controlled Colleges or University Assistance Act and the Higher Education Act to improve Tribal Colleges and Universities, and for other purposes; to the Committee on Indian Affairs.

By Ms. CANTWELL:

S. 2540. A bill to protect educational FM radio stations providing public service broadcasting from commercial encroachment; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN (for himself, Mr. BROWNBACK, Mrs. HUTCHISON, and Mr. ALLEN):

S. 2541. A bill to reauthorize and restructure the National Aeronautics and Space Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself and Mr. EDWARDS):

S. 2542. A bill to provide for review of determinations on whether schools and local educational agencies made adequate yearly progress for the 2002–2003 school year taking into consideration subsequent regulations and guidance applicable to those determinations, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THOMAS (for himself and Mr. BURNS):

S. 2543. A bill to establish a program and criteria for National Heritage Areas in the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. STABENOW (for herself, Mrs. LINCOLN, and Mr. LEVIN):

S. 2544. A bill to provide for the certification of programs to provide uninsured employees of small businesses access to health coverage, and for other purposes; to the Committee on Finance.

By Mr. NELSON of Florida (for himself and Mr. ROCKEFELLER):

S. 2545. A bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes; to the Committee on Finance.

By Mr. DURBIN:

S. 2546. A bill to amend the Federal Food, Drug, and Cosmetic Act to require premarket consultation and approval with respect to genetically engineered foods, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 382. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

By Mr. CAMPBELL (for himself, Mr. DODD, Mr. SMITH, Mr. REID, Mr. DAYTON, and Mr. DEWINE):

S. Con. Res. 119. A concurrent resolution recognizing that prevention of suicide is a compelling national priority; to the Committee on Health, Education, Labor, and Pensions.

## ADDITIONAL COSPONSORS

S. 640

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 640, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 893

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 893, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S . 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make

grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S . 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1890

At the request of Mr. ENZI, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1890, a bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes.

S. 1916

At the request of Ms. LANDRIEU, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of 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.

S. 2158

At the request of Ms. COLLINS, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2158 , a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2176

At the request of Mr. BINGAMAN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S . 2176, a bill to require the Secretary of Energy to carry out a program of research and development to advance high-end computing.

S. 2253

At the request of Mrs. FEINSTEIN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2253, a bill to permit young adults to perform projects to prevent fire and suppress fires, and provide disaster relief, on public land through a Healthy Forest Youth Conservation Corps.

S. 2351

At the request of Ms. COLLINS, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2351, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes.

S. 2363

At the request of Mr. LEAHY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S . 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2434

At the request of Mr. HATCH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2434, a bill to establish the Commission to Study the Potential Creation of a National Museum of the American Latino Community to develop a plan of action for the establishment and maintenance of a National Museum of the American Latino Community in Washington, D.C., and for other purposes.

S. 2447

At the request of Mr. LIEBERMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2447, a bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the National Institute of Child Health and Human Development to study the role and impact of electronic media in the development of children.

S. 2474

At the request of Mr. ALLARD, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S . 2474, a bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, and for other purposes.

S. 2525

At the request of Mr. SPECTER, the names of the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maine (Ms. COLLINS), the Senator from Maine (Ms. SNOWE), the Senator from New York (Mrs. CLINTON), the Senator from Rhode Island (Mr. REED), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 2525, a bill to establish regional dairy marketing areas to stabilize the price of milk and support the income of dairy producers.

S. 2529

At the request of Mr. GRASSLEY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2529, a bill to extend and modify the trade benefits under the African Growth and Opportunity Act.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in may each year as ''National Visiting Nurse Association Week.''

S. CON. RES. 75

At the request of Mr. DURBIN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. Con. Res. 75, a concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued to promote public awareness of Down syndrome.

S. CON. RES. 110

At the request of Mr. CAMPBELL, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. COLEMAN), the Senator from Oregon (Mr. WYDEN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. Con. Res. 110, a concurrent resolution expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 313

At the request of Mr. FEINGOLD, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Res. 313, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities.

S. RES. 357

At the request of Mr. CAMPBELL, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. Res. 357, a resolution designating the week of August 8 through August 14, 2004, as ''National Health Center Week.''

AMENDMENT NO. 3171

At the request of Ms. LANDRIEU, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 3171 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3235

At the request of Mr. BROWNBACK, the names of the Senator from Georgia (Mr. MILLER) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 3235 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities

of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3264

At the request of Mr. PRYOR, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 3264 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3315

At the request of Ms. LANDRIEU, the names of the Senator from Maine (Ms. SNOWE), the Senator from South Dakota (Mr. DASCHLE), the Senator from Nevada (Mr. REID), the Senator from Minnesota (Mr. DAYTON), the Senator from Florida (Mr. NELSON), the Senator from Washington (Mrs. MURRAY), the Senator from New Jersey (Mr. CORZINE), the Senator from New York (Mr. SCHUMER), the Senator from Arkansas (Mr. PRYOR) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of amendment No. 3315 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3352

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3352 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3355

At the request of Mr. REED, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of amendment No. 3355 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3368

At the request of Mr. LEVIN, his name was added as a cosponsor of amendment No. 3368 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3379

At the request of Mr. BIDEN, the names of the Senator from New York (Mrs. CLINTON), the Senator from Delaware (Mr. CARPER), the Senator from New Jersey (Mr. CORZINE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 3379 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3384

At the request of Mr. BOND, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of amendment No . 3384 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3397

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of amendment No. 3397 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3427

At the request of Mrs. MURRAY, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of amendment No. 3427 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3434

At the request of Mr. MCCONNELL, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 3434 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3440

At the request of Mr. ENSIGN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of amendment No. 3440 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3441

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 3441 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3442

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 3442 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3443

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 3443 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3444

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 3444 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe

personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3445

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 3445 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM of Florida (for himself and Mr. DURBIN):

S. 2535. A bill to amend title XVIII of the Social Security Act to modernize the medicare program by ensuring that appropriate preventive services are covered under such program; to the Committee on Finance.

Mr. GRAHAM of Florida. Mr. President, I am very pleased to introduce the Medicare Preventive Services Coverage Act of 2004, and to be joined by Senator RICHARD DURBIN.

This legislation would change the basic charter of Medicare to one that not only diagnoses and treats, but also prevents illness.

On July 30, 1965, Medicare was created under title 18 of the Social Security Act to provide health insurance coverage for the elderly.

The coverage provided through the program was limited to diagnostic and treatment services that were considered reasonable and necessary.

There was little demand to cover preventive services under Medicare or any other health plan at that time because we were not yet cognizant of the vital role of prevention on the health and quality of human life.

The basic charter of Medicare reflects this lack of understanding.

However, since Medicare's inception, we have learned a lot about the enormous burden of chronic disease on our Nation.

According to the Centers for Disease Control and Prevention, CDC, more than 1.7 million Americans die of a chronic disease each year, accounting for about 70 percent of all deaths.

Not only does chronic disease lead to a majority of deaths and disabilities in America, it also accounts for about 75 percent of health care costs each year, placing a huge economic demand on our Nation.

Medicare bears a lion's share of this cost. In 2003, Medicare spent nearly $7,000 per beneficiary; much of this cost is attributable to treating chronic illnesses.

The percentage of the population over age 65 has increased dramatically and will continue to do so. This will place an even greater economic burden on Medicare.

What is the bottom line? In short, Medicare cannot afford this spiraling cost.

The good news is that we now have decades of research demonstrating that although chronic diseases are the most common and costly of all health problems, they are also the most preventable.

For example, according to the CDC regular eye exams and timely treatment could prevent up to 90 percent of diabetes related blindness.

Eye chart screening for visual acuity is currently recommended by the United States Preventive Services Task Force, USPSTF, but is not covered by Meidcare.

The impact of prevention on chronic disease is well known by the President's Secretary for Health and Human Services.

HHS Secretary Thompson said in September 2003:

> There is clear evidence that the costs of chronic conditions are enormous, as are the potential savings from preventing them, even if there may not always be agreement on the exact amounts of these cost savings.

He goes on to say:

> . . . the Nation simply cannot afford not to step up efforts to reverse the growing prevalence of chronic disorders. Resources and energy need to be marshaled in all sectors and at all levels of society.

Partnership for Prevention, a Washington, DC, think tank on health policy takes Thompson's comments one step further. A recent Partnership report makes the following logical assumption:

> As the primary source of health insurance coverage for millions of older Americans and persons with permanent disabilities, Medicare has the potential to have a substantial impact on the health of beneficiaries by promoting and covering cost-effective preventive services.

Congress has added coverage for some preventive services over the last two decades, including the flu vaccine, mammograms, and cancer screening.

As HHS does not have the authority to add preventive services to Medicare—despite the growing body of evidence that has proved their efficacy—these benefits were only added to Medicare because of congressional action.

The benefits that Congress have added are extremely important, and I am glad that we have taken the steps to make them available to our seniors.

However, the congressional process is slow, and subject to political winds and influences that are not always based purely in science.

The legislation I am introducing would change the basic charter of Medicare from a program focused on diagnosing and treating illnesses to one that also prevents illnesses by giving the Department of Health and Human Services the authority to make coverage decisions for preventive services.

Why change the current system of passing legislation each time we want to add coverage of preventive service to Medicare? There are some very logical reasons.

The reliance on Congress to cover preventive services has resulted in: Coverage for only half of clinical preventive services that experts recommend for the 65+ age group; coverage that not only fails to keep up with changes in scientific evidence but is often in consistent with authoritative recommendations; a confusing array of cost sharing requirements across covered preventive services; and lack of coverage of some preventive services that provide great health benefits in favor of others that do not meet current evidence standards as a result of vocal advocacy groups.

Luckily, the fundamental reform of the program that I am proposing does not require extensive statutory or bureaucratic change.

Medicare already has a process in place for the Secretary of Health and Human Services to make coverage decisions on diagnostic, treatment, and durable medical equipment options.

My bill would authorize the Secretary to make coverage decisions on preventive services using that same process, based on the recommendations of the federally-convened United States Preventive Services Task Force, USPSTF, and other groups.

This authorization would not entail dramatic new administrative expenses or a major reorganization of CMS coverage processes and staff.

My legislation would put preventive services on an equal footing with diagnostic and treatment services by allowing the Secretary to make coverage decisions for all services needed to prevent, diagnose, and treat illness.

Providing beneficiaries with the most cost-effective and current preventive services should no longer require an ''Act of Congress.''

It should, instead, require the insight of the experts in the field, and be based on the same careful process HHS is currently using.

Let us untie their hands and improve the lives of our Medicare beneficiaries by building coverage of preventive services into the currently established coverage decision process.

This legislation is supported by the following groups: American College of Preventive Medicine; HealthPartners; Deafness Research Foundation; Partnership for Prevention; American Dietetic Association; American Public Health Association; Families USA; American Physical Therapy Association; American Academy of Family Physicians; United Cerebral Palsy Association; National Mental Health Association; Campaign for Tobacco-Free Kids, and the Emergency Department Practice Management Association.

If Medicare were created today, it would certainly not exclude coverage of preventive services.

Today we know how important preventive services are; they save money and lives. Let us give Medicare the authority to do its job.

I urge my colleagues to join me in sponsoring this important piece of legislation.

I ask unanimous consent to print letters of support from the above-listed groups in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN PUBLIC HEALTH ASSOCIATION,
*Washington, DC, June 1, 2004.*

Hon. BOB GRAHAM,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR GRAHAM: On behalf of the American Public Health Association (APHA), the largest and oldest organization of public health professionals in the country, representing more than 50,000 members from over 50 public health occupations, I write in support of the Medicare Preventive Services Coverage Act of 2004.

As outlined in position paper 7633, ''Policy Statement on Prevention,'' APHA has long supported measures to increasingly utilize the fund preventive services in federal health programs. In this vein, the Medicare Preventive Services Coverage Act of 2004 demonstrates a significant commitment to addressing the underlying factors responsible for the underutilization of prevention strategies that optimize the health and independence of the elderly by granting the Secretary the authority to approve Medicare coverage of preventive services based on recommendations of the U.S. Preventive Services Task Force and other groups. By allowing decisions about coverage of preventive services to be made in the same timely, evidence-based manner as other services under Medicare, the legislation would enable Medicare to take a vital step towards focusing more on disease prevention, which is cost-effective and has the ability to prevent or delay the occurrence of chronic disease.

Since the creation of Medicare, the American Public Health Association has supported measures to protect Medicare beneficiaries against significant financial exposure that imposes barriers to the receipt of needed care. The provisions of the Medicare Preventive Services Act of 2004 that aim to eliminate co-payments and deductibles from all future preventive benefits serve to ensure that Medicare beneficiaries will not be restricted from accessing needed preventive medical care because of financial hardship.

Thank you for your attention to and leadership on this important public health issue. We look forward to working with you to move legislation forward this year.

Sincerely
GEORGES C. BENJAMIN, MD, FACP,
*Executive Director.*

---

JUNE 2, 2004.

Hon. BOB GRAHAM,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR GRAHAM: Congratulations on the introduction of your new legislation to provide a permanent solution to Medicare's long-standing failure to cover appropriate preventive health services. Families USA, the health consumer advocacy organization, strongly endorses your effort.

Currently, life-saving and life-improving preventive screening services have been covered only by an act of Congress—and usually only after long and difficult debates. Your proposal will place this basic scientific and technical issue in the excellent medical staff of the Centers for Medicare and Medicaid Services, where decisions can be made on a more timely, professional and scientific basis. We believe that this will help ensure that important preventive care services will be implemented in a more timely and rational way. The result will be an improvement in the quality of life of Medicare beneficiaries.

Congratulations again on this proposal—one of a long-line of creative and helpful health initiatives that you have championed in your outstanding Senate career.

Sincerely,
RONALD F. POLLACK,
*Executive Director.*

---

AMERICAN PHYSICAL THERAPY ASSOCIATION,
*Alexandria, VA, June 2, 2004.*

Hon. BOB GRAHAM,
*U.S. Senate, Senate Hart Office Building, Washington, DC.*

DEAR SENATOR GRAHAM: On behalf of the 64,000 members of the American Physical Therapy Association (APTA), I commend you for your efforts to promote the full continuum of health care for our nation's seniors and persons with disabilities served by the Medicare program. APTA appreciates the introduction of your legislation, the Medicare Preventative Services Coverage Act of 2004 and fully supports its enactment by the 108th Congress. Prevention services are an essential part of the health care continuum that needs better integration into the Medicare program, and your legislation goes a long way toward achieving that objective.

Physical therapists provide prevention services that forestall or prevent functional decline and the need for more intense care. Through timely and appropriate screening, examination, evaluation, diagnosis, prognosis, and intervention, physical therapists frequently reduce or eliminate the need for more costly forms of care and also may shorten or even eliminate institutional stays. Physical therapists are actively involved in promoting health, wellness and fitness initiatives, including the provision of services and education of patients that stimulate the public to engage in healthy behaviors. An example of physical therapist involvement in preventive services is the use of therapeutic interventions to improve strength, mobility, and balance to reduce falls that often lead to more costly health care and disability under Medicare.

Thank you for your commitment to improving the Medicare program. The addition of appropriate preventative services to the Medicare program will help our nations' seniors and persons with disability lead more healthy and productive lives within our communities. Please feel free to contact Justin Moore on APTA's Government Affairs staff at justinmoore@apta.org or 703/706–3162, if you have any questions or need additional information.

Sicnerely,
BEN F. MASSEY, Jr., PT, MA,
*President.*

---

AMERICAN ACADEMY OF FAMILY PHYSICIANS,
*Washington, DC, June 9, 2004.*

Hon. ROBERT GRAHAM,
*Hart Senate Office Building,*
*U.S. Senate, Washington, DC.*

DEAR SENATOR GRAHAM: Thank you for the opportunity to review the draft of your legislation, the Medicare Preventive Services Coverage Act. On behalf of the 93,700 members of the American Academy of Family Physicians, I am pleased to inform you that the AAFP strongly endorses the bill, and we congratulate you for your efforts on behalf of the nation's seniors.

This legislation would help make Medicare more responsive to the people that it directly serves. By allowing CMS to cover preventive services that are based on evidence and current science and that have been reviewed and approved by the United States Preventive Services Task Force and other appropriate organizations, the bill helps direct Medicare toward proven health care services that will keep seniors healthier. The AAFP commends your commitment to evidence-based measures that will prevent accidents and illness and provide more effective health care. We believe that sound science should always be the basis of medical decisions.

The Academy would urge you and your colleagues in Congress to consider giving CMS the authority to review current preventive services in the light of the U.S. Preventive Services Task Force recommendations and to alter reimbursement accordingly. And we would also suggest that Congress might want to make more explicit the agency's authority to review and revise payments as the evidence of previously approved services changes.

Thank you, Senator Graham, for your commitment to the health of Medicare patients and for your leadership in improving this important program that serves them.

Sincerely,
JAMES C. MARTIN, MD, FAAFP,
*Board Chair.*

---

AMERICAN COLLEGE OF PREVENTIVE MEDICINE,
*June 4, 2004.*

The American College of Preventive Medicine (ACPM) is very pleased to support Senator Bob Graham's bill granting the Secretary of Health and Human Services the authority to approve Medicare coverage of preventive medical services from the recommendations of the United States Preventive Services Task Force (USPSTF) and other appropriate organizations.

As the representative organization for preventive medicine physicians, ACPM understands the potential long-term benefits from clinical preventive services supported by evidence to have a beneficial impact on survival and quality of life. As the population of the United States ages, preventive services will become the best strategy to keep people healthy and to conserve medical expenditures.

Therefore, the ACPM offers its full support of Senator Graham's proposed legislation to include preventive services under Medicare coverage.

MIKE BARRY,
*Deputy Director.*

---

AMERICAN DIETETIC ASSOCIATION,
*Chicago, IL, June 2, 2004.*

Hon. BOB GRAHAM,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR GRAHAM: The American Dietetic Association (ADA) is the largest organization of food and nutrition professionals in the U.S. We promote optimal nutrition and well being of all people, by relying on evidence-based practices and policies. To that end, ADA is pleased to support the Medicare Preventive Services Coverage Act of 2004.

Nutrition is a critical element to any comprehensive health care program and in particular preventive services. According to the Department of Health and Human Services, 40 percent of Americans age 40 to 74 suffer from pre-diabetes. The evidence shows that proper nutrition and physical activity can prevent many, if not most of these Americans from developing type II diabetes. In cardiovascular care, the evidence shows that proper preventive nutrition intervention can slow or reverse conditions such as hypertension or dyslipidemia. Unfortunately, Medicare does not recognize the importance of preventive care in general and preventive nutrition therapy specifically.

When Congress passed the Medicare Modernization Act last year, it included a new provision for preventive care under Sec. 611,

the Initial Preventive Physical Examination. While referral to medical nutrition therapy is specifically mentioned in the bill, CMS is interpreting this new language as limited to only those diseases (diabetes and renal) that are already eligible for MNT. As a result of this interpretation, patients diagnosed during the initial preventive physical exam as having pre-diabetes, must wait until their conditions progress to type II diabetes before Medicare will cover nutrition therapy.

Such an approach to preventive care is poor health policy and poor fiscal management of the program. Your Medicare Preventive Services Coverage Act if enacted, will promote preventive care within Medicare to the status it deserves. ADA commends your efforts and foresight.

Sincerely,

RONALD E. SMITH,
*Director of Government Relations.*

---

CAMPAIGN FOR
TOBACCO-FREE KIDS,
*June 14, 2004.*

Hon. BOB GRAHAM,
*U.S. Senator, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR GRAHAM: The Campaign for Tobacco-Free Kids is pleased to lend its support to your bill, The Medicare Preventive Services Coverage Act of 2004.

This bill will help provide the scientific foundation and evidence-based decisions that are critical for ensuring that the Medicare program provides the most effective preventive services to all Medicare beneficiaries. This bill will help shift the emphasis of the Medicare program from treating illness to one where the focus is more on wellness, health promotion and prevention. With nearly three-quarters of all illnesses in this country related to preventable conditions such as tobacco use, lack of proper nutrition and physical fitness, obesity and diabetes, it makes perfect health and fiscal sense to enact such changes into the Medicare program.

With the recent inclusion of prescription drug coverage to the Medicare program, including coverage for prescription tobacco use cessation medications such as nicotine nasal spray and bupropion SR, this bill represents a tremendous opportunity to enhance and compliment this new coverage through the provision of tobacco use cessation counseling services. According to the U.S. Preventive Services Task Force, next to childhood immunizations, tobacco cessation counseling is the most clinically effective preventive service that we have. Furthermore, we know that counseling services double the number of successful quit smoking attempts versus people who try to quit ''cold turkey''. And when combined with medications, there is nearly a four-fold increase in successful quit attempts. With about 10 percent of all Medicare beneficiaries still smoking, about 4.5 million people, such a benefit would have a tremendous impact on the health and quality of life of our nation's seniors.

Again, the Campaign for Tobacco-Free Kids is proud to support this important piece of public health legislation.

Sincerely,

MATTHEW L. MYERS,
*President.*

---

PARTNERSHIP FOR PREVENTION,
*Washington, DC, June 2, 2004.*

Hon. BOB GRAHAM,
*U.S. Senator, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR GRAHAM: Thank you for requesting Partnership for Prevention's comments on Medicare policy concerning disease prevention and health promotion.

Partnership strongly recommends that Congress modernize Medicare by directing the Centers for Medicare and Medicaid Services to make coverage decisions for disease prevention and health promotion services based on evidence-based recommendations such as those of the U.S. Preventive Services Task Force and the Advisory Committee on Immunization Practices. This was one of the principal policy recommendations in Partnership's 2003 report, A Better Medicare for Healthier Seniors: Recommendations to Modernize Medicare's Prevention Policies. We understand that you plan to introduce legislation that would bring about such a policy change.

When Congress created Medicare in 1965, it designed the program based on the knowledge of health, medicine and health care at that time. Thus, Medicare focused on hospitalization and visits to doctors' offices to treat or diagnose seniors who were already showing signs of illness. Medicine has made great progress since then, including development of proven ways to prevent disease and promote longer, healthier lives. But Medicare has consistently lagged behind the curve, failing to cover proven disease prevention and health promotion services or providing coverage years later than private insurers.

Allowing Medicare coverage decisions for preventive services to be made following a similar process as diagnosis and treatment decisions is an important step in modernizing Medicare. It is also critical that these coverage decisions be informed by systematic reviews of evidence conducted by independent experts, such as the U.S. Preventive Services Task Force. We understand that your bill would address these issues and enable Medicare to keep pace with progress in preventive medicine and health promotion.

Partnership's Better Medicare report also noted that use rates for most preventive services that are covered by Medicare fall short of national targets, in part because of a confusing array of cost sharing requirements, such as deductibles and co-payments for these services. We understand that your bill would eliminate these impediments for preventive services covered in the future.

Most Americans understand that it is preferable to help people stay healthy instead of waiting to treat them after they become sick. It is in our nation's interest for seniors to be healthy instead of infirm, active instead of hospitalized, productive instead of costly, independent instead of dependent. Cost-saving and cost-effective disease prevention and health promotion are sound investments for our country.

Thank you again for requesting our comments on these important facets of Medicare policy.

Sincerely,

JOHN M. CLYMER,
*President.*

---

DEAFNESS RESEARCH FOUNDATION,
*Washington, DC, June 2, 2004.*

Hon. BOB GRAHAM,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR GRAHAM: On behalf of the Deafness Research Foundation and World Council on Hearing Health, we fully support the Amendment to Title XVII of the Social Security Act to modernize the Medicare program so as to ensure preventive services be covered under the program.

The Deafness Research Foundation and its public education and advocacy arm, called the World Council on Hearing Health's mission is to make a lifetime of hearing possible for all people through quality research, public education and advocacy. We espouse the program platforms of detection, prevention, intervention and research about hearing loss. Therefore, we fully support your draft bill that will allow for the Secretary of Health and Human Services be granted the authority to approve Medicare coverage of preventive services based on recommendations of the U.S. Preventive Services Task Force and other organizations if enacted.

Early detection of hearing loss through regular hearing checkups (at least once every two years) from childhood to adulthood is a key to early intervention as needed. For babies and children it is especially important so their educational, emotional and social development is not halted nor compromised. In adults, early detection of hearing loss is the best prevention against further damaging one's hearing not to mention the impact hearing loss can have on one's career and quality of life. In the elderly, the ability to diagnose hearing loss early on is an imperative to combat misdiagnoses of dementia and senility.

We commend you on taking the initiative to propose this bill and we will tell the 40,000 donors and members of Deafness Research Foundation to fervently follow its progress.

Sincerely,

SUSAN GRECO,
*Executive Director.*

---

JUNE 3, 2004.

Hon. ROBERT GRAHAM,
*Hart Senate Office Building,*
*Washington, DC.*

DEAR SENATOR GRAHAM: I am writing on behalf of HealthPartners in support of the ''Medicare Preventive Services Coverage Act of 2004''. HealthPartners is a consumer-governed family of nonprofit Minnesota health care organizations focused on improving the health of its members, its patients and the community. HealthPartners and its related organizations provide health care services, insurance and HMO coverage to more than 670,000 members. The key features of this bill would go far in helping to improve the health of Medicare enrollees.

This bill would put disease prevention on a level playing field with disease detection and treatment under Medicare. It would also permit preventive service coverage decisions to be based on evidence. We believe strongly that appropriate preventive services should be included in the Medicare benefit set and that those benefits should be evidence-based. Using the United States Preventive Services Task Force (and other appropriate organizations') recommendations as a guide for the addition of preventive services is an excellent step.

We encourage the Secretary and Congress to continue to focus benefits in both the Medicare and Medicaid programs on evidence based medicine. Evidence based care provides the structure for the right services to be delivered at the right time in the right location for enrollees of all ages. This, in turn, supports achieving the six aims for care as outlined by the Institute of Medicine: care that is patient-centered, timely, effective, efficient, equitable and safe. We support your efforts to achieve these ends.

Sincerely,

GEORGE ISHAM, M.D.,
*Medical Director and*
*Chief Health Officer.*

---

EMERGENCY DEPARTMENT PRACTICE
MANAGEMENT ASSOCIATION,
*McLean, VA, June 16, 2004.*

Hon. SENATOR GRAHAM,
*Hart Senate Office Building,*
*U.S. Senate, Washington, DC.*

DEAR SENATOR GRAHAM: Thank you for the opportunity to review your draft legislation, the Medicare Preventive Services Coverage Act. On behalf of the Emergency Department Practice Management Association's members, we congratulate you on your efforts in

this area and strongly support this legislation as it reflects sound health policy.

EDPMA members work with their hospital partners to provide quality patient care in the emergency departments across the country. As you know, overcrowding in emergency departments is a serious problem. By expanding Medicare's coverage of preventative services, we believe that Medicare patients will have incentives to get treatment in less acute settings.

Emergency departments are a key element of the nation's safety net. While we support expansion of Medicare benefits, we believe it is of critical importance that Medicare's physician fee schedule appropriately capture emergency physician's uncompensated care costs. We look forward to working with you to address this problem.

Like you, EPDMA is dedicated to providing quality care to Medicare's patients. We join you in support of this legislation and appreciate your on-going leadership in health policy.

Sincerely,

EMILY R. WILSON,
*Managing Director.*

---

NATIONAL MENTAL HEALTH ASSOCIATION,
*Alexandria, VA, June 16, 2004.*

Hon. BOB GRAHAM,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR GRAHAM: On behalf of the National Mental Health Association (NMHA), I am writing to commend you for introducing the Medicare Preventive Services Coverage Act of 2004. Prevention and early detection of mental illness are critical components to ensuring overall well-being that have long been overlooked, particularly with regard to Medicare beneficiaries. Your bill represents a major step forward in recognizing that mental illness can be prevented and successfully treated, especially if detected early. Prevention services provided through this legislation will undoubtedly lead to improved access to and utilization of mental health treatment among a population in which mental illness has been severely under-diagnosed.

NMHA is the nation's oldest and largest advocacy organization addressing all aspects of mental health and mental illness. With more than 340 affiliates nationwide, we work to improve the mental health of all Americans through advocacy, education, research, and service. Prevention of mental illness is a key element of our mission, and we are heartened by your efforts to ensure that Medicare beneficiaries receive a full complement of preventive services, including mental health services.

As you know, mental illness affects a very large segment of the Medicare population, but few receive the treatment they need. According to the Surgeon General's 1999 Report on Mental Health, some 20 percent of those 55 and older experience specific mental disorders that are not part of normal aging, including phobias, obsessive-compulsive disorder, and depression, and 40 percent of those on Medicare because of a disability, face mental illness. Major depression is particularly prevalent among older Americans: in primary care settings, 37 percent of seniors display symptoms of depression.

However, all too often seniors and people with disabilities struggle with mental illness alone and without treatment and support. It is estimated that only half of older adults who acknowledge mental health problems actually are treated. A very small percentage of older adults—less than 3 percent—report seeing mental health professionals for treatment. This lack of care has tragic consequences as illustrated by the fact that Americans 65 and older have the highest rate of suicide in the country, accounting for 20 percent of suicide deaths.

The President's New Freedom Commission on Mental Health found that ''[t]he number of older adults with mental illnesses is expected to double to 15 million in the next 30 years [and that] [m]ental illnesses have a significant impact on the health and functioning of older people and are associated with increased health care use and higher costs.'' New Freedom Commission on Mental Health, Achieving the Promise: Transforming Mental Health Care in America. Final Report, p. 59. The Commission recommended that ''[a]ny effort to strengthen or improve the Medicare and Medicaid programs should offer beneficiaries options to effectively use the most up-to-date [mental health] treatments and services.'' Id., p. 26.

Early detection and intervention services are essential for preventing mental health problems from compounding and for lessening long-term disability that can result from mental illness. The President's Commission stated that early assessment and treatment are critical across the life span and found that ''[n]ew understanding of the brain indicates that early identification and intervention can sharply improve outcomes and that longer periods of abnormal thoughts and behavior have cumulative effects and can limit capacity for recovery.'' Id., p. 57. Numerous studies have indicated that prevention and early intervention services for seniors result in improved mental health conditions, positive behavioral changes, and decreased use of inpatient care.

Thank you again for introducing the Medicare Preventive Services Coverage Act of 2004. By incorporating preventive mental health services into the Medicare program, this bill will substantially improve access to treatment for a population with tremendous mental health needs.

Sincerely,

MICHAEL M. FAENZA, MSSW,
*President and CEO.*

---

Hon. BOB GRAHAM,
*U.S. Senate, Hart Office Building, Washington, DC.*

DEAR SENATOR GRAHAM: United Cerebral Palsy would like to lend our wholehearted support to the Medicare Preventive Services Coverage Act of 2004 that would amend the Social Security Act and the Medicare Prescription Drug Improvement and Modernization Act of 2003 to make a broad array of preventive health care services a standard part of Medicare. To date, the Congress has added selected preventive services to Medicare but has not included other services that are proven effective; nor has it encouraged Medicare to take a comprehensive approach to disease prevention and health promotion for American seniors and people with disabilities. Passage of this legislation would mean that, for the first time and to the benefit of millions of Americans, prevention would be placed on a level playing field with disease detection, diagnosis and treatment under Medicare.

We thank you for recognizing that prevention is a good investment, diminishing disability and discomfort, leading to less time spent in hospitals and in nursing homes and more time spent at home and in the community. In many cases, effective preventive services will generate cost savings for Medicare, as well as providing beneficiaries with more productive years of life.

About one in eight of Medicare's 40+ million beneficiaries, about 5 million people, are people with disabilities under age 65, people who have worked and become disabled, or who are the adult dependents or survivors of eligible workers. According to the National Economic Council, these beneficiaries are 35 percent less likely to have any sort of employer-based coverage, compared to elderly beneficiaries who sometimes have coverage through retiree health plans. Thus, access to any prevention benefits outside their Medicare coverage is severely limited.

For individuals with disabilities, prevention is truly no less important than medical treatment. A primary disability can often mean that a person is extremely at risk for, or susceptible to, secondary health or disabling conditions. Compounding this fact is the fact that many of these secondary conditions may be low-incidence conditions that affect only a small population and would, therefore, not necessarily be those that come to the attention of Congress when new coverage decisions are made.

Additionally, as people with a wide range of disabilities grow older, the impact of their disability may lead to premature occurrence of age-related conditions. Clearly, the Medicare Preventive Services Coverage Acts of 2004 would be of great assistance to these beneficiaries by allowing decisions about coverage of preventive services to be made in the same manner as coverage decisions for other services, making preventive service coverage decisions more timely, individualized and evidence-based.

We are also pleased that the bill would eliminate co-payments and deductibles from all future preventive benefits. There is currently a confusing array of cost-sharing requirements across Medicare's covered preventive benefits, and Medicare beneficiaries with disabilities are more likely to have lower incomes. By definition, people receiving disability insurance often are unable to engage in full-time work due to their conditions, and more than three-fourths of these beneficiaries have income below 200 percent of the poverty level, compared to half of elderly beneficiaries.

United Cerebral Palsy wishes you the best and offers our support in gaining passage of this critical legislation.

Sincerely,

STEPHEN BENNETT,
*President and Chief Executive Officer, United Cerebral Palsy.*

---

By Ms. COLLINS (for herself and Mr. WYDEN):

S. 2536. A bill to enumerate the responsibilities of the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, to require the Inspector General of the Department of Homeland Security to designate a senior official to investigate civil rights complaints, and for other purposes; to the Committee on Governmental Affairs.

Mr. COLLINS. Mr. President, today Senator WYDEN and I are introducing the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004. It has been a pleasure to work with my colleague from Oregon on this legislation to strengthen protections for civil rights and civil liberties. In the wake of the terrorist attacks on September 11, 2001, during his joint address to Congress, the President called on all Americans to ''uphold the values of America and remember why so many have come here. We're in a fight for our principles, and our first responsibility is to live by them.''

In response to the need to safeguard our homeland, Congress enacted the Homeland Security Act of 2002 that

created the Department of Homeland Security, the most significant government restructuring in more than 50 years. But in focusing our attention on protecting the homeland from future terrorist attacks, we also must ensure that we do not trample on the very values that the terrorists seek to destroy. In enacting the Homeland Security Act, Congress understood the importance of providing checks and balances to protect civil rights and civil liberties. To this end, Congress created within the Department three positions devoted wholly or in part to ensuring respect for civil liberties as the Department carries out its mandate to protect our homeland. These positions are the Officer for Civil Rights and Civil Liberties, the Privacy Officer, and the Department's Inspector General. These three officials have crucial roles in assessing actions of the Department that may affect personal privacy, civil rights, and civil liberties.

The nature of the mission of the Department of Homeland Security makes safeguards especially important. The Department is now our country's biggest law enforcement agency. It has more Federal officers with arrest and firearm authority than the Department of Justice. In addition, DHS law enforcement personnel have contact with thousands of people every day. In this post 9/11 world, DHS law enforcement personnel must be especially sensitive to maintaining civil liberties as they work to strengthen security and detect and deter terrorist attacks.

I am pleased that the leadership of the Department recognizes the fundamental importance of protecting the rights of all of us while fighting terrorism. Under the leadership of Secretary Ridge, the new Department of Homeland Security has won praise for its commitment to the protection of our freedoms. Secretary Ridge has provided the Officer for Civil Rights and Civil Liberties and the Privacy Officer with the tools they need to be effective. These officials have functioned at the senior level, regularly providing advice to the Secretary and his deputies. The Officer for Civil Rights and Civil Liberties, the Privacy Officer and the Inspector General have met regularly with organizations concerned about civil liberties, privacy, human rights, and immigrant rights and have been responsive to their concerns.

It is time for Congress to build on the foundation Secretary Ridge has laid in protecting civil rights and civil liberties. I believe the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 does exactly that.

The bill would write into law the activities of the Officer for Civil Rights and Civil Liberties. As enacted, the Homeland Security Act did not clearly define the duties of that position. Over the past year, however, a strong Officer, with the support of the Department's leadership, has charted an important course for his office. The Officer has worked closely with the senior leadership of the Department. He has assisted in the development of departmental policies to ensure that civil liberties are given due consideration. He has overseen compliance with constitutional and other requirements relating to the rights and liberties of individuals affected by the Department's programs. He has coordinated with the Privacy Officer to ensure that overlapping privacy and civil rights concerns are addressed in a comprehensive way. And he has investigated alleged abuses of civil rights and civil liberties.

None of these activities is expressly addressed in the statutory language creating the Department, and there is no assurance in the law that future Officers for Civil Rights and Civil Liberties will work so energetically to carry out these vital duties. It is time for the law to catch up with practice, and the Homeland Security Civil Rights and Civil Liberties Protection Act ensures that goal.

The bill also clarifies that the Officer for Civil Rights and Civil Liberties as well as the Privacy Officer should report directly to the Secretary, and requires coordination between those officers to ensure an integrated and comprehensive approach to the important issues they address.

The Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 strengthens the ability of the Department's Inspector General to safeguard civil rights and civil liberties by requiring the DHS Inspector General to designate a senior official to coordinate investigation of abuses, ensure public awareness of complaint procedures, and coordinate his or her work with the Officer for Civil Rights and Civil Liberties. This position is similar to one Congress created in the Office of the Inspector General of the Department of Justice.

Finally, the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 amends the mission statement of the Department of Homeland Security to ensure that actions taken by the Department to protect the homeland do not diminish civil liberties and civil rights. This important revision places into the statutory language that the protection of civil rights and civil liberties is crucial in this time of heightened security.

The battle against terror will last for many years, perhaps decades. During that long struggle, we must continue to secure our nation against future attacks, but at the same time protect those American values that define our free society. The Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 will strengthen the protection of civil rights and civil liberties and will help to ensure that that protection will continue in the years to come.

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. 2536

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Homeland Security Civil Rights and Civil Liberties Protection Act of 2004''.

**SEC. 2. MISSION OF DEPARTMENT OF HOMELAND SECURITY.**

Section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)) is amended—

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

(2) by redesignating subparagraph (G) as subparagraph (H); and

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

''(G) ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland; and''.

**SEC. 3. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.**

Section 705(a) of the Homeland Security Act of 2002 (6 U.S.C. 345(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting ''report directly to the Secretary and shall'' after ''who shall'';

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

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

(4) by adding at the end the following:

''(3) assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;

''(4) oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department;

''(5) coordinate with the Privacy Officer to ensure that—

''(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

''(B) Congress receives appropriate reports regarding such programs, policies, and procedures; and

''(6) investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General.''.

**SEC. 4. PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES BY OFFICE OF INSPECTOR GENERAL.**

Section 8I of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(f)(1) The Inspector General of the Department of Homeland Security shall designate a senior official within the Office of Inspector General, who shall be a career member of the civil service at the equivalent to the GS–15 level or a career member of the Senior Executive Service, to perform the functions described in paragraph (2).

''(2) The senior official designated under paragraph (1) shall—

''(A) coordinate the activities of the Office of Inspector General with respect to investigations of abuses of civil rights or civil liberties;

''(B) receive and review complaints and information from any source alleging abuses of civil rights and civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

''(C) initiate investigations of alleged abuses of civil rights or civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

''(D) ensure that personnel within the Office of Inspector General receive sufficient training to conduct effective civil rights and civil liberties investigations;

''(E) consult with the Officer for Civil Rights and Civil Liberties regarding—

''(i) alleged abuses of civil rights or civil liberties; and

''(ii) any policy recommendations regarding civil rights and civil liberties that may be founded upon an investigation by the Office of Inspector General;

''(F) provide the Officer for Civil Rights and Civil Liberties with information regarding the outcome of investigations of alleged abuses of civil rights and civil liberties;

''(G) refer civil rights and civil liberties matters that the Inspector General decides not to investigate to the Officer for Civil Rights and Civil Liberties;

''(H) ensure that the Office of the Inspector General publicizes and provides convenient public access to information regarding—

''(i) the procedure to file complaints or comments concerning civil rights and civil liberties matters; and

''(ii) the status of investigations initiated in response to public complaints; and

''(I) inform the Officer for Civil Rights and Civil Liberties of any weaknesses, problems, and deficiencies within the Department relating to civil rights or civil liberties.''.

**SEC. 5. PRIVACY OFFICER.**

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) in the matter preceding paragraph (1), by inserting '', who shall report directly to the Secretary,'' after ''in the Department'';

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

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

''(5) coordinating with the Officer for Civil Rights and Civil Liberties to ensure that—

''(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

''(B) Congress receives appropriate reports on such programs, policies, and procedures; and''.

Mr. WYDEN. Mr. President, the threat of terrorism is an unfortunate fact of life today, and it is not going to go away any time soon. Protecting American citizens against this threat will continue to be an essential and urgent task for the foreseeable future.

However, I do not believe that fighting terrorism aggressively requires tossing civil liberties protections into the scrap heap. This is not an ''either or'' choice. This country's tradition of high standards of civil rights and civil liberties should not and need not become the first casualty of the war on terrorism.

I have made this point repeatedly in the time since the terrorist attacks of 9/11. Still, all too often, we have seen well-meaning government agencies take the approach of designing a security system or program first, and worrying about the civil liberties and privacy implications later.

I am convinced that the approach of making civil liberties an afterthought doesn't work and isn't acceptable. Civil liberties and privacy considerations need to be built into the DNA of the Homeland Security Department and its various programs.

The legislation that created the Homeland Security Department included some very positive steps in that regard, by creating an Officer for Civil Rights and Civil Liberties and a Privacy Officer.

Today, I am joining Senator COLLINS in introducing new legislation to flesh out the role and stature of these key offices within the Department.

Specifically, the legislation would add a reference to civil liberties to the statutory mission statement of the Department of Homeland Security. It would provide further detail as to the duties of the Officer for Civil Rights and Civil Liberties. It would specify that both the Officer for Civil Rights and Civil Liberties and the Privacy Officer shall report directly to the Secretary. And it would direct the DHS Inspector General to designate a point person within the I.G. office to focus expressly on civil liberties matters.

None of these items represents a radical departure from the original Homeland Security legislation or the current practice of the department. Rather, this new bill codifies much of what is already going on, giving it a firm statutory basis.

I hope my colleagues will join Senator COLLINS and me in supporting this legislation, and in delivering a strong message that civil liberties matters remain a core factor in this country's homeland security efforts. I ask unanimous consent that the text of the bill be printed in the RECORD.

---

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 2538. A bill to provide a grant program to support the establishment and operation of Teachers Institutes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, today I am introducing legislation, along with my colleague from Connecticut, Mr. DODD, that will strengthen the content and pedagogy knowledge of our present K–12 teacher workforce and thus ultimately raise student achievement.

My proposal would establish eight new Teacher Professional Development Institutes throughout the Nation each year over the next five years based on the model which has been operating at Yale University for over 25 years. Every Teacher Institute would consist of a partnership between an institution of higher education and the local public school system in which a significant proportion of the students come from low-income households. These Institutes will strengthen the present teacher workforce by giving each participant an opportunity to gain more sophisticated content knowledge and a chance to develop curriculum units with other colleagues that can be directly applied in their classrooms. We know that teachers gain confidence and enthusiasm when they have a deeper understanding of the subject matter that they teach and this translates into higher expectations for their students and thus, an increase in student achievement.

The Teacher Professional Development Institutes are based on the Yale-New Haven Teachers Institute model that has been in existence since 1978. For over 25 years, the Institute has offered six or seven thirteen-session seminars each year, led by Yale faculty, on topics that teachers have selected to enhance their mastery of the specific subject area that they teach. The subject selection process begins with representatives from the Institutes soliciting ideas from teachers throughout the school district for topics on which teachers feel they need to have additional preparation, topics that will assist them in preparing materials they need for their students, or topics that will assist them in addressing the standards that the school district requires. As a consensus emerges about desired seminar subjects, the Institute director identifies university faculty members with the appropriate expertise, interest and desire to lead the seminar. University faculty members, especially those who have led Institute seminars before, may sometimes suggest seminars they would like to lead, and these ideas are circulated by the representatives as well. The final decisions on which seminar topics are offered are ultimately made by the teachers who participate. In this way, the offerings are designed to respond to what teachers believe is needed and useful for both themselves and their students.

The cooperative nature of the Institute seminar planning process ensures its success: Institutes offer seminars and relevant materials on topics teachers have identified and feel are needed for their own preparation as well as what they know will motivate and engage their students. Teachers enthusiastically take part in rigorous seminars they have requested, and as part of the program, practice using the materials they have obtained and developed. This helps ensure that the experience not only increases their preparation in the subjects they are assigned to teach, but also their participation in an Institute seminar gives them immediate hands-on active learning materials that can be used in the classroom. In short, by allowing teachers to determine the seminar subjects and providing them the resources to develop relevant curricula for their classroom and their students, the Institutes empower teachers. Teachers know their students best and they know what should be done to improve schools and increase student learning. The Teacher Professional Development Institutes promote this philosophy.

From 1999–2002, the Yale-New Haven Teachers Institute launched a National

Demonstration Project to create comparable Institutes at four diverse sites with large concentrations of disadvantaged students. These demonstration projects are located in Pittsburgh, PA, Houston, TX, Albuquerque, NM, and Santa Ana, CA.

Follow-up evaluations have earned very positive results from the teacher participants in the Yale-New Haven Institute, as well as the four demonstration sites. The data strongly support the conclusion that virtually all teachers felt substantially strengthened in their mastery of content knowledge and they also developed increased expectations for what their students could achieve. In addition, because of their involvement in the course selection and curriculum development process, teacher participants have found these seminars to be especially relevant and useful in their classroom practices. Ninety-five percent of all participating teachers reported that the seminars were useful. These Institutes have also served to foster teacher leadership, to develop supportive teacher networks, to heighten university faculty commitments to improving K–12 public education, and to foster more positive partnerships between school districts and institutions of higher education.

By some studies, teacher quality is the single most important school-related factor in determining student achievement. In support of this, the No Child Left Behind Act requires a ''highly qualified'' teacher to be in every classroom by the end of 2005–2006. Effective teacher professional development programs that focus on subject and pedagogy knowledge are a proven method for enhancing the success of a teacher in the classroom and in helping them meet the highly qualified criteria.

Though a K–12 teacher shortage is forecast in the near-term and many new teachers will be entering our schools, those teachers who are presently on the job will do the majority of teaching in the classrooms in the very near future. For this reason, it is imperative to invest in methods to strengthen our present teaching workforce. Like many professions, the quality of our teachers could diminish if their professional development is neglected. Research has shown that positive educational achievements occur when coursework in a teachers' specific content area is combined with pedagogy techniques. This is what the Teacher Professional Development Institutes Act strives to accomplish.

The Yale-New Haven Institutes have already proven to be a successful model for teacher professional development as demonstrated by the high caliper curriculum unit plans that teacher participants have developed and placed on the web and by the evaluations that support the conclusion that virtually all the teacher participants felt substantially strengthened in their mastery of content knowledge and their teaching skills. My proposal would open this opportunity to many more urban teachers throughout the nation.

I urge my colleagues to act favorably on this measure. 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. 2538

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

**SECTION 1. TEACHER PROFESSIONAL DEVELOPMENT INSTITUTES.**

Title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.) is amended by adding at the end the following:

**''PART C—TEACHER PROFESSIONAL DEVELOPMENT INSTITUTES**

**''SEC. 241. SHORT TITLE.**

''This part may be cited as the 'Teacher Professional Development Institutes Act'.

**''SEC. 242. FINDINGS AND PURPOSE.**

''(a) FINDINGS.—Congress makes the following findings:

''(1) The ongoing professional development of teachers in the subjects the teachers teach is essential for improved student learning.

''(2) Attaining the goal of the No Child Left Behind Act of 2001, of having a teacher who is highly qualified in every core subject classroom, will require innovative and effective approaches to improving the quality of teaching.

''(3) The Teachers Institute Model is an innovative approach that encourages a collaboration between urban school teachers and university faculty. The Teachers Institute Model focuses on the continuing academic preparation of school teachers and the application of what the teachers study to their classrooms and potentially to the classrooms of other teachers.

''(4) The Teachers Institute Model has also been successfully demonstrated over a 3-year period in a National Demonstration Project (hereafter in this part referred to as the 'National Demonstration Project') in several cities.

''(b) PURPOSE.—The purpose of this part is to provide Federal assistance to support the establishment and operation of Teachers Institutes for local educational agencies that serve significant low-income populations in States throughout the Nation—

''(1) to improve student learning; and

''(2) to enhance the quality of teaching by strengthening the subject matter mastery of current teachers through continuing teacher preparation.

**''SEC. 243. DEFINITIONS.**

''In this part:

''(1) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

''(2) SIGNIFICANT LOW-INCOME POPULATION.—The term 'significant low-income population' means a student population of which not less than 25 percent are from families with incomes below the poverty line.

''(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(4) TEACHERS INSTITUTE.—The term 'Teachers Institute' means a partnership or joint venture between or among 1 or more institutions of higher education, and 1 or more local educational agencies serving a significant low-income population, which partnership or joint venture—

''(A) is entered into for the purpose of improving the quality of teaching and learning through collaborative seminars designed to enhance both the subject matter and the pedagogical resources of the seminar participants; and

''(B) works in collaboration to determine the direction and content of the collaborative seminars.

**''SEC. 244. GRANT AUTHORITY.**

''(a) IN GENERAL.—The Secretary is authorized—

''(1) to award grants to Teachers Institutes to encourage the establishment and operation of Teachers Institutes; and

''(2) to provide technical assistance, either directly or through existing Teachers Institutes, to assist local educational agencies and institutions of higher education in preparing to establish and in operating Teachers Institutes.

''(b) SELECTION CRITERIA.—In selecting a Teachers Institute for a grant under this part, the Secretary shall consider—

''(1) the extent to which the proposed Teachers Institute will serve a community with a significant low-income population;

''(2) the extent to which the proposed Teachers Institute will follow the Understandings and Necessary Procedures that have been developed following the National Demonstration Project;

''(3) the extent to which the local educational agency participating in the proposed Teachers Institute has a high percentage of teachers who are unprepared or under prepared to teach the core academic subjects the teachers are assigned to teach; and

''(4) the extent to which the proposed Teachers Institute will receive a level of support from the community and other sources that will ensure the requisite long-term commitment for the success of a Teachers Institute.

''(c) CONSULTATION.—

''(1) IN GENERAL.—In evaluating applications under subsection (b), the Secretary may request the advice and assistance of existing Teachers Institutes.

''(2) STATE AGENCIES.—If the Secretary receives 2 or more applications for new Teachers Institutes that propose serving the same State, the Secretary shall consult with the State educational agency regarding the applications.

''(d) FISCAL AGENT.—For the purpose of this part, an institution of higher education participating in a Teachers Institute shall serve as the fiscal agent for the receipt of grant funds under this part.

''(e) LIMITATIONS.—A grant under this part—

''(1) shall be awarded for a period not to exceed 5 years; and

''(2) shall not exceed 50 percent of the total costs of the eligible activities, as determined by the Secretary.

**''SEC. 245. ELIGIBLE ACTIVITIES.**

''(a) IN GENERAL.—Grant funds awarded under this part may be used—

''(1) for the planning and development of applications for the establishment of Teachers Institutes;

''(2) to provide assistance to the Teachers Institutes established during the National Demonstration Project to enable the Teachers Institutes—

''(A) to develop further the Teachers Institutes; or

''(B) to support the planning and development of applications for new Teachers Institutes;

''(3) for the salary and necessary expenses of a full-time director to plan and manage the Teachers Institute and to act as liaison

between the local educational agency and the institution of higher education participating in the Teachers Institute;

''(4) to provide suitable office space, staff, equipment, and supplies, and to pay other operating expenses, for the Teachers Institute;

''(5) to provide a stipend for teachers participating in collaborative seminars in the sciences and humanities, and to provide remuneration for those members of the faculty of the institution of higher education participating in the Teachers Institute who lead the seminars; and

''(6) to provide for the dissemination through print and electronic means of curriculum units prepared in the seminars conducted by the Teachers Institute.

''(b) TECHNICAL ASSISTANCE.—The Secretary may use not more than 50 percent of the funds appropriated to carry out this part to provide technical assistance to facilitate the establishment and operation of Teachers Institutes. For the purpose of this subsection, the Secretary may contract with existing Teachers Institutes to provide all or a part of the technical assistance under this subsection.

**''SEC. 246. APPLICATION, APPROVAL, AND AGREEMENT.**

''(a) IN GENERAL.—To receive a grant under this part, a Teachers Institute shall submit an application to the Secretary that—

''(1) meets the requirement of this part and any regulations under this part;

''(2) includes a description of how the Teachers Institute intends to use funds provided under the grant;

''(3) includes such information as the Secretary may require to apply the criteria described in section 244(b);

''(4) includes measurable objectives for the use of the funds provided under the grant; and

''(5) contains such other information and assurances as the Secretary may require.

''(b) APPROVAL.—The Secretary shall—

''(1) promptly evaluate an application received for a grant under this part; and

''(2) notify the applicant within 90 days of the receipt of a completed application of the Secretary's approval or disapproval of the application.

''(c) AGREEMENT.—Upon approval of an application, the Secretary and the Teachers Institute shall enter into a comprehensive agreement covering the entire period of the grant.

**''SEC. 247. REPORTS AND EVALUATIONS.**

''(a) REPORT.—Each Teachers Institute receiving a grant under this part shall report annually on the progress of the Teachers Institute in achieving the purpose of this part and the purposes of the grant.

''(b) EVALUATION AND DISSEMINATION.—

''(1) EVALUATION.—The Secretary shall evaluate the activities funded under this part and submit an annual report regarding the activities to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

''(2) DISSEMINATION.—The Secretary shall broadly disseminate successful practices developed by Teachers Institutes.

''(c) REVOCATION.—If the Secretary determines that a Teachers Institute is not making substantial progress in achieving the purpose of this part and the purposes of the grant by the end of the second year of the grant under this part, the Secretary may take appropriate action, including revocation of further payments under the grant, to ensure that the funds available under this part are used in the most effective manner.

**''SEC. 248. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to carry out this part—

''(1) $4,000,000 for fiscal year 2005;

''(2) $5,000,000 for fiscal year 2006;

''(3) $6,000,000 for fiscal year 2007;

''(4) $7,000,000 for fiscal year 2008; and

''(5) $8,000,000 for fiscal year 2009.''.

---

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. DOMENICI, and Mr. SMITH):

S. 2539. A bill to amend the Tribally Controlled Colleges or University Assistance Act and the Higher Education Act to improve Tribal Colleges and Universities, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce legislation to update and improve the Tribally Controlled Colleges or University Assistance Act and amend the Indian sections of the Higher Education Act.

Indian tribal colleges were first created about 30 years ago in response to the higher education needs of Native populations living in remote and isolated areas of the country where access to higher education is extremely difficult.

There are 33 tribally- or Federally-chartered Indian colleges in the Nation and they do a superb job despite the many obstacles they face.

In recent years the cost of higher education has far exceeded the rate of inflation. Tribal colleges face other problems as well: a growing population and growing demand for services; increased demand for additional facilities; geographical isolation; and difficulty attracting quality professors to teach.

Tribal colleges not only provide a quality higher education but also enhance the cultural knowledge, knowledge depositories, college preparatory work, and other important educational needs of Indian communities.

Tribal colleges also enhance the economies of tribes. The national unemployment rate in the U.S. today is about 5.6 percent, while the rate for Native Americans is many times that and in some parts of Indian country hovers above 50 percent.

Tribal colleges serve as centers for business incubation and small business development in order to encourage private business development and job creation.

Tribal colleges are also being called on to help Indian communities in the often-difficult transition from welfare to work. These institutions also provide education and training to people ready to join the workforce.

To continue the vital work of these colleges, the bill I am introducing will provide additional resources and means to develop facilities, increase quality faculty and improve the overall education of Indian people within their reservations.

I urge my colleagues to join me in supporting this important bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2539

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

**TITLE I—TRIBAL COLLEGES AND UNIVERSITIES**

**SEC. 101. TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY ACT OF 1978.**

(a) FORMULA.—Section 108(a)(2) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1808) is amended by striking ''$6,000'' and inserting ''$8,000''.

(b) TITLE I REAUTHORIZATION.—Section 110(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended—

(1) in paragraphs (1), (2), (3), and (4), by striking ''1999'' and inserting ''2004'';

(2) in paragraphs (1), (2), and (3), by striking ''4 succeeding'' and inserting ''5 succeeding'';

(3) in paragraph (2), by striking ''$40,000,000'' and inserting ''$55,000,000'';

(4) in paragraph (3), by striking ''$10,000,000'' and inserting ''$20,000,000''; and

(5) in paragraph (4), by striking ''succeeding 4'' and inserting ''5 succeeding''.

(c) TITLE III REAUTHORIZATION.—Section 306(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1836(a)) is amended—

(1) by striking ''1999'' and inserting ''2004''; and

(2) by striking ''4 succeeding'' and inserting ''5 succeeding''.

(d) TITLE IV REAUTHORIZATION.—Section 403 of the Tribal Economic Development and Technology Related Education Assistance Act of 1990 (25 U.S.C. 1852) is amended—

(1) by striking ''$2,000,000 for fiscal year 1999'' and inserting ''$5,000,000 for fiscal year 2004''; and

(2) by striking ''4 succeeding'' and inserting ''5 succeeding''.

(e) CLARIFICATION OF THE DEFINITION OF NATIONAL INDIAN ORGANIZATION.—Section 2(a)(6) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)(6)) is amended by striking ''in the field of Indian education'' and inserting ''in the field of Tribal Colleges and Universities and Indian higher education''.

(f) INDIAN STUDENT COUNT.—Section 2(a) of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1801(a)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following:

''(7) 'Indian student' means a person who is—

''(A) a member of an Indian tribe; or

''(B) a biological child of a member of an Indian tribe, living or deceased;''.

(g) CONTINUING EDUCATION.—Section 2(b) of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1801(b)) is amended by striking paragraph (5) and inserting the following:

''(5) DETERMINATION OF CREDITS.—Eligible credits earned in a continuing education program—

''(A) shall be determined as 1 credit for every 10 contact hours in the case of an institution on a quarter system, or 15 contact hours in the case of an institution on a semester system, of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as described in the criteria established by the International Association for Continuing Education and Training; and

''(B) shall be limited to 10 percent of the Indian student count of a tribally controlled college or university.''.

(h) ACCREDITATION REQUIREMENT.—Section 103 of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1804) is amended—

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

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

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

''(4)(A) is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority with regard to the quality of training offered; or

''(B) is, according to such an agency or association, making reasonable progress toward accreditation.''.

(i) TECHNICAL ASSISTANCE CONTRACT AWARDS.—Section 105 of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1805) is amended in the second sentence by striking ''In the awarding of contracts for technical assistance, preference shall be given'' and inserting ''The Secretary shall direct that contracts for technical assistance be awarded''.

**SEC. 102. TITLE III GRANTS FOR AMERICAN INDIAN TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.**

(a) DEFINITION OF TRIBAL COLLEGE OR UNIVERSITY.—Section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)) is amended by striking paragraph (3) and inserting the following:

''(3) TRIBAL COLLEGE OR UNIVERSITY.—

''(A) IN GENERAL.—The term 'Tribal College or University' means an institution that meets the definition of tribally controlled college or university in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).

''(B) INCLUSIONS.—The term 'Tribal College or University' includes Bay Mills Community College; Blackfeet Community College; Cankdeska Cikana Community College; Chief Dull Knife College; College of Menominee Nation; Crownpoint Institute of Technology; Dine College; D–Q University; Fond Du Lac Tribal and Community College; Fort Belknap College; Fort Berthold Community College; Fort Peck Community College; Haskell Indian Nations University; Institute of American Indian and Alaska Native Culture and Arts Development; Lac Courte Oreilles Ojibwa Community College; Leech Lake Tribal College; Little Big Horn College; Little Priest Tribal College; Nebraska Indian Community College; Northwest Indian College; Oglala Lakota College; Saginaw Chippewa Tribal College; Salish Kootenai College; Si Tanka University-Eagle Butte Campus; Sinte Gleska University; Sisseton Wahpeton Community College; Sitting Bull College; Southwestern Indian Polytechnic Institute; Stone Child College; Tohono O'odham Community College; Turtle Mountain Community College; United Tribes Technical College; and White Earth Tribal and Community College.''.

(b) DISTANCE LEARNING.—Section 316(c)(2) of the Higher Education Act of 1965 (20 U.S.C. 1059c(c)(2)) is amended—

(1) in subparagraph (B), by inserting before the semicolon at the end the following: ''and the acquisition of real property adjacent to the campus of the institution on which to construct such facilities'';

(2) in subparagraph (K), by striking ''and'' at the end;

(3) by redesignating subparagraph (L) as subparagraph (M); and

(4) by inserting after subparagraph (K) the following:

''(L) developing or improving facilities for Internet use or other distance learning academic instruction capabilities; and''.

(c) APPLICATION, PLAN, AND ALLOCATION.—Section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c) is amended by striking subsection (d) and inserting the following:

''(d) APPLICATION, PLAN, AND ALLOCATION.—

''(1) INSTITUTIONAL ELIGIBILITY.—To be eligible to receive assistance under this section, a Tribal College or University shall be an eligible institution under section 312(b).

''(2) APPLICATION.—

''(A) IN GENERAL.—A Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, and in such manner, as the Secretary may reasonably require.

''(B) STREAMLINED PROCESS.—The Secretary shall establish application requirements in such a manner as to simplify and streamline the process for applying for grants.

''(3) ALLOCATIONS TO INSTITUTIONS.—

''(A) CONSTRUCTION GRANTS.—

''(i) IN GENERAL.—Of the amount appropriated to carry out this section for any fiscal year, the Secretary shall reserve 30 percent for the purpose of awarding 1-year grants of not less than $1,000,000 to address construction, maintenance, and renovation needs at eligible institutions.

''(ii) PREFERENCE.—In providing grants under clause (i), the Secretary shall give preference to eligible institutions that have not yet received an award under this section.

''(B) ALLOTMENT OF REMAINING FUNDS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall distribute the remaining funds appropriated for any fiscal year to each eligible institution as follows:

''(I) 60 percent of the remaining appropriated funds shall be distributed among the eligible Tribal Colleges and Universities pro rata basis, based on the respective Indian student counts (as defined in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)) of the Tribal Colleges and Universities; and

''(II) the remaining 40 percent shall be distributed in equal shares to eligible Tribal Colleges and Universities.

''(ii) MINIMUM GRANT.—The amount distributed to a Tribal College or University under clause (i) shall not be less than $500,000.

''(4) SPECIAL RULES.—

''(A) CONCURRENT FUNDING.—For the purposes of this part, no Tribal College or University that is eligible for and receives funds under this section shall concurrently receive funds under other provisions of this part or part B.

''(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.''.

**SEC. 103. LOAN REPAYMENT OR CANCELLATION FOR INDIVIDUALS WHO TEACH IN TRIBAL COLLEGES OR UNIVERSITIES.**

(a) PERKINS LOANS.—

(1) AMENDMENT.—Section 465(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (H), by striking ''or'' at the end;

(ii) in subparagraph (I), by striking the period at the end and inserting ''; or''; and

(iii) by adding at the end the following:

''(J) as a full-time teacher at a Tribal College or University (as defined in section 316(b)).''; and

(B) in paragraph (3)(A)(i), by striking ''or (I)'' and inserting ''(I), or (J)''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective for service performed during academic year 1998–1999 and succeeding academic years, notwithstanding any contrary provision of the promissory note under which a loan under part E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087aa et seq.) was made.

(b) FFEL AND DIRECT LOANS.—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by adding at the end the following:

**''SEC. 493. LOAN REPAYMENT OR CANCELLATION FOR INDIVIDUALS WHO TEACH IN TRIBAL COLLEGES OR UNIVERSITIES.**

''(a) DEFINITION OF YEAR.—In this section, the term 'year', as applied to employment as a teacher, means an academic year (as defined by the Secretary).

''(b) PROGRAM.—The Secretary shall carry out a program, through the holder of a loan, of assuming or canceling the obligation to repay a qualified loan amount, in accordance with subsection (c), for any new borrower on or after the date of enactment of this section, who—

''(1) has been employed as a full-time teacher at a Tribal College or University (as defined in section 316(b)); and

''(2) is not in default on a loan for which the borrower seeks repayment or cancellation.

''(c) QUALIFIED LOAN AMOUNTS.—

''(1) PERCENTAGES.—Subject to paragraph (2), the Secretary shall assume or cancel the obligation to repay under this section—

''(A) 15 percent of the amount of all loans made, insured, or guaranteed after the date of enactment of this section to a student under part B or D, for the first or second year of employment described in subsection (b)(1);

''(B) 20 percent of such total amount, for the third or fourth year of such employment; and

''(C) 30 percent of such total amount, for the fifth year of such employment.

''(2) MAXIMUM.—The Secretary shall not repay or cancel under this section more than $15,000 in the aggregate of loans made, insured, or guaranteed under parts B and D for any student.

''(3) TREATMENT OF CONSOLIDATION LOANS.—A loan amount for a loan made under section 428C may be a qualified loan amount for the purposes of this subsection only to the extent that the loan amount was used to repay a loan made, insured, or guaranteed under part B or D for a borrower who meets the requirements of subsection (b), as determined in accordance with regulations promulgated by the Secretary.

''(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

''(e) EFFECT OF SECTION.—Nothing in this section authorizes any refunding of any repayment of a loan.

''(f) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).''.

(c) AMOUNTS FORGIVEN NOT TREATED AS GROSS INCOME.—Rules similar to the rules under section 108(f) of the Internal Revenue Code of 1986 shall apply to the amount of any loan that is assumed or canceled under this section.

## TITLE II—NAVAJO HIGHER EDUCATION

**SEC. 201. SHORT TITLE.**

This title may be cited as the ''Navajo Nation Higher Education Act of 2004''.

**SEC. 202. CONGRESSIONAL FINDINGS.**

Congress finds that—

(1) the Treaty of 1868 between the United States of America and the Navajo Tribe of Indians (15 Stat. 667) provides for the education of the citizens of the Navajo Nation;

(2) in 1998, the Navajo Nation created and chartered the Navajo Community College by Resolution CN–95–68 as a wholly owned educational entity of the Navajo Nation;

(3) in 1971, Congress enacted the Navajo Community College Act (25 U.S.C. 640a et seq.);

(4) in 1997, the Navajo Nation officially changed the name of the Navajo Community College to Dinè College by Resolution CAP–35–97;

(5) the purpose of Dinè College is to provide educational opportunities to the Navajo people and others in areas important to the economic and social development of the Navajo Nation;

(6) the mission of Dinè College is to apply the principles of Sa'ah Naaghì Bik'eh Hòzhòòn (Dinè Philosophy) to advance student learning through training of the mind and heart—

(A) through Nitshkees (Thinking), Nahat (Planning), Iin (Living), and Sihasin (Assurance);

(B) in study of the Dinè language, history, philosophy, and culture;

(C) in preparation for further studies and employment in a multicultural and technological world; and

(D) in fostering social responsibility, community service, and scholarly research that contribute to the social, economic, and cultural well-being of the Navajo Nation;

(7) the United States has a trust and treaty responsibility to the Navajo Nation to provide for the educational opportunities for Navajo people;

(8) significant portions of the infrastructure of the College are dilapidated and pose a serious health and safety risk to students, employees and the public; and

(9) the purposes and intent of this Act—

(A) are consistent with—

(i) Executive Order 13270 (3 C.F.R. 242 (2002); relating to tribal colleges and universities)); and

(ii) Executive Order 13336 (69 Fed. Reg. 25295; relating to American Indian and Alaska Native education), issued on April 30, 2004; and

(B) fulfill the responsibility of the United States to serve the education needs of the Navajo people.

**SEC. 203. DEFINITIONS.**

In this title:

(1) COLLEGE.—The term ''College'' means Dinè College.

(2) COSTS OF OPERATION AND MAINTENANCE.—The term ''operation and maintenance'' means all costs and expenses associated with the customary daily operation of the College and necessary maintenance costs.

(3) INFRASTRUCTURE.—

(A) IN GENERAL.—The term ''infrastructure'' means College buildings, water and sewer facilities, roads, foundation, information technology, and telecommunications.

(B) INCLUSIONS.—The term ''infrastructure'' includes—

(i) classrooms; and

(ii) external structures, such as walkways.

(4) NATION.—The term ''Nation'' means the Navajo Nation.

(5) RENOVATIONS AND REPAIRS.—The term ''renovations and repairs'' means modernization and improvements to the infrastructure.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

**SEC. 204. REAUTHORIZATION OF DINÈ COLLEGE.**

Congress authorizes the College to receive all Federal funding and resources under this Act and other laws for the operation, improvement, and growth of the College, including—

(1) provision of programs of higher education for citizens of the Nation and others;

(2) provision of vocational and technical education for citizens of the Nation and others;

(3) preservation and protection of the Navajo language, philosophy, and culture for citizens of the Nation and others;

(4) provision of employment and training opportunities to Navajo communities and people;

(5) provision of economic development and community outreach for Navajo communities and people; and

(6) provision of a safe learning, working, and living environment for students, employees, and the public.

**SEC. 205. FACILITIES AND CAPITAL PROJECTS.**

The College may expend money received under section 209(c) to undertake all renovations and repairs to the infrastructure of the College, as identified by a strategic plan approved by the College and submitted to the Secretary.

**SEC. 206. STATUS OF FUNDS.**

Funds provided to the College under this title may be treated as non-Federal, private funds of the College for purposes of any provision of Federal law that requires that non-Federal or private funds of the College be used in a project for a specific purpose.

**SEC. 207. SURVEY, STUDY, AND REPORT.**

(a) REPORT.—The Secretary shall—

(1) conduct a detailed study of all capital projects and facility needs of the College; and

(2) submit to Congress a report that —

(A) describes the results of the study not later than October 31, 2009; and

(B) includes detailed recommendations of the Secretary and any recommendations or views submitted by the College and the Nation.

(b) ADMINISTRATIVE EXPENSES.—Funds to carry out this section may be drawn from general administrative appropriations to the Secretary.

**SEC. 208. CONTINUING ELIGIBILITY FOR OTHER FEDERAL FUNDS.**

Except as explicitly provided for in other Federal law, nothing in this Act precludes the eligibility of the College to received Federal funding and resources under any program authorized under—

(1) the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.); and

(2) the Equity in Educational Land Grant Status Act (Title V, Part C, of Public Law 103–382; 7 U.S.C. 301 note); or

(3) any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

**SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such amounts as are necessary to pay the costs of operation and maintenance.

(b) BUDGET PLACEMENT.—The Secretary shall fund the costs of operation and maintenance of the College separately from tribal colleges and universities recognized and funded by the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(c) FACILITIES AND CAPITAL PROJECTS.—

(1) IN GENERAL.—In addition to amounts made available under subsection (a), there are authorized to be appropriated to carry out section 205 $15,000,000 for each of fiscal years 2005 through 2009.

(2) AGENCIES.—Amounts made available under paragraph (1) may be funded through any 1 or more of—

(A) the Department of the Interior;

(B) the Department of Education;

(C) the Department of Heath and Human Services;

(D) the Department of Housing and Urban Development;

(E) the Department of Commerce;

(F) the Environmental Protection Agency;

(G) the Department of Veterans Affairs;

(H) the Department of Agriculture;

(I) the Department of Homeland Security;

(J) the Department of Defense;

(K) the Department of Labor; and

(L) the Department of Transportation.

**SEC. 210. REPEAL OF NAVAJO COMMUNITY COLLEGE ACT.**

This Act supersedes the Navajo Community College Act (25 U.S.C. 640a et seq.).

---

By Ms. CANTWELL:

S. 2540. A bill to protect educational FM radio stations providing public service broadcasting from commercial encroachment; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, I stand today to offer a bill to protect educational radio stations.

Broadcaster Linda Ellerbee has compared radio to a national campfire: a place where a variety of voices bring us stories, news, opinion, culture and entertainment. But it seems these days that those representing the biggest business interests have the best seats at that campfire.

Current regulations allow commercial broadcasters to move into the spaces of some, lower-powered educational stations.

Last year the FCC ordered an educational station at a high school in Pennsylvania to be closed because a commercial broadcaster wanted to move into that space. That high school station had been serving the students and the community in Havertown, PA for fifty years. But no more. The high school station's voice was silenced. And that same FCC order also closed a radio station operated by a school district in Princeton, NJ. Both stations lost their licenses so a commercial broadcaster could get a frequency closer to the very profitable radio market in Philadelphia.

In my State of Washington, a high school station that has served a Seattle community for 35 years is now threatened with closure. That's because a commercial broadcaster located in another State wants to relocate to a larger city to increase its profits at the expense of the students of Mercer Island High School and the community the station serves. And in this case, the school's station also serves an important tool in the lives of those working in the local music community. The station focuses on introducing new and local bands to the airways. These artists are frequently later picked up for airplay by other radio stations. Few stations across the U.S. perform this role in the music industry. No other station serves this role so well in the Seattle music community.

If the FCC allows this move, it could be worth millions to the commercial broadcasters. But what is the cost to the local community when this voice is silenced? What is the educational cost to the students at this high school? What benefits and experiences will they be losing in the future?

This is a classic example of commercial interests trumping the public service interest in preserving local educational broadcasters. These small public service stations usually don't have

anyone to stand up for them. Since the 1970's, we have seen more than a hundred of these stations disappear, to be replaced by larger, often national broadcasters, with little if any connection to the local community.

The examples I've given you here today are not the only ones. Radio stations run by universities in Pittsburgh and North Carolina are also vulnerable to similar attempts.

This is why I am introducing the Educational Radio Protection Act.

My legislation is very simple: educational stations that are able to meet certain qualifying standards, similar to the requirements for primary, Class A, stations on FM radio, will be given the same protected status that these primary stations receive.

This is an important measure to protect community broadcasters. And the bottom line is that commercial broadcasters won't be able to bump these educational stations off the radio dial.

I thank you for the time today to discuss an issue that really is a cornerstone of democracy. For only in a democracy are the voices of the many heard to bring about a functioning government. I urge my colleagues to support this bill, and yield the floor.

---

By Mr. MCCAIN (for himself, Mr. BROWNBACK, Mrs. HUTCHISON, and Mr. ALLEN):

S. 2541. A bill to reauthorize and restructure the National Aeronautics and Space Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senators BROWNBACK, HUTCHISON, and ALLEN in introducing legislation to re-authorize the National Aeronautics and Space Administration. This legislation marks the beginning of a new age of exploration, and the extension of humanity's quest for knowledge to a manned mission to Mars.

NASA is currently responsible for a number of programs that create greater knowledge about the Earth and the universe around us. As we speak today, the two robots, *Spirit* and *Opportunity*, are exploring craters on Mars in search of ancient lake beds. The Hubble telescope continues to show us new discoveries about the universe. NASA satellites also help us to develop a better scientific understanding of the Earth's atmosphere and its response to natural and human-induced changes. NASA is in the process of developing airplanes with morphing wings that will change shape during flight.

Despite all of these wondrous achievements, NASA is an agency in search of a new mission. For many Americans, the Apollo landings remain a moment of inspiration, but also a fading memory of the past. Many space enthusiasts have complained that the manned space program has been stuck in low Earth orbit and harnessed to a costly space station and aging Space Shuttle infrastructure. Just last year, we again witnessed the inherent danger in manned spaceflight, and some questioned the need for such a risky and expensive program.

To his credit, President Bush announced on the day of the *Columbia* tragedy that ''our journey into space will go on.'' In January, the President offered a bold new space vision and made a firm commitment to return the Space Shuttle to flight, finish construction of the International Space Station, and return astronauts to the Moon in preparation for a manned mission to Mars. This bill would authorize these activities consistent with the President's overall requested budget amounts, and set the nation firmly on a course for manned exploration beyond low Earth orbit.

However, we also have learned from the mistakes of the past. Unfortunately, NASA's recent history of managing projects, such as the X–33 and X–34, has been full of disappointment and failure. Many Members have seen the wisdom of President Reagan's adage to ''trust, but verify,'' when analyzing NASA's budget numbers. With these lessons in mind, the bill contains a number of provisions to ensure that NASA stays on track.

The bill would require the submission of a baseline technical requirements document and life cycle cost estimate, so that Congress can find out exactly what is required to implement the President's vision and begin to determine its cost. The bill also would require an industrial assessment of the private sector's ability to support manned missions to the Moon and Mars, and a commercialization plan to identify opportunities for the private sector to participate in future missions. Most importantly, the bill would require quarterly life cycle reports on major systems of the new initiative, and include cost-control measures when the cost overruns of these systems exceed 15 percent and 25 percent over the total life cycle cost of the system.

The bill also would codify many of the recommendations of the Columbia Accident Investigation Board (CAIB). Admiral Gehman and the other board members did an admirable job in thoroughly investigating the causes of this tragic accident. The bill would establish a lessons-learned and best practices program to ensure that NASA does not repeat the mistakes of the past. In addition, the Office of Safety and Mission Assurance is given independent funding and direct line authority over the entire Space Shuttle Safety organization. An Independent Technical Engineering Authority is established within NASA with its own budgetary line to maintain technical standards, be the sole waiver-granting authority for technical standards, and perform other tasks. The bill also would ensure that the Independent Technical Engineering Authority would recertify the Space Shuttle orbiters for operation prior to any operations beyond 2010. The bill would include an assessment of NASA's culture and organization, and an action plan to fix the cultural and organizational problems that the CAIB identified as a major cause of the accident. The men and women of the *Columbia* gave their lives to further America's knowledge of the Earth and the stars, and we should honor their memory by ensuring that such an accident never occurs again.

In addition, the bill would address the problems concerning the Hubble Space Telescope. As my colleagues know, NASA has indicated that it cannot use the Space Shuttle for another human mission to service this national treasure. Both NASA and the National Academy of Sciences are reviewing options for using robots and other means to save the telescope. Sixty days after the National Academy releases its report, the Administrator would be directed to report to Congress on the future servicing options for Hubble and how much it will cost.

I realize that concerns have been raised regarding some of the cuts that NASA is proposing to pay for the President's exploration vision. In order to pay for this new program, we must realize that there is limited funding and that NASA funding has to be re-allocated. However, this bill should not be construed as supporting each and every proposed reduction. Instead, the bill simply would authorize the funding levels buy the major budget accounts.

Curiosity and a drive to explore have always been quintessential American traits. This has been most evident in the space program, which continues to show great advances in human knowledge. However, we are fully aware of the inherent risks and costs of space exploration, and the need to mitigate them wherever possible. Based on this knowledge, let us now embark upon this great journey into the stars to find whatever may await us.

I urge my colleagues to support this legislation, and look forward to working with them to ensure passage of this bill this year.

---

By Mr. KENNEDY (for himself and Mr. EDWARDS):

S. 2542. A bill to provide for review of determinations on whether schools and local educational agencies made adequate yearly progress for the 2002–2003 school year taking into consideration subsequent regulations and guidance applicable to those determinations, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it's a privilege to join my colleagues in introducing the No Child Left Behind Fairness Act. Our goal is to achieve accurate and fair determinations of accountability in current law. The bill does not change the accountability provisions of the law, but it does require the Department of Education to play by its own rules in considering the progress of each school.

The accountability provisions in the No Child Left Behind Act are critical to accomplishing the goal of closing the achievement gap. Before its enactment, many communities ignored the gaps between some children and others in school, even though some groups of students were consistently falling behind. Communities are now beginning to provide the help those schools need to meet higher standards for all students, such as better teacher training, better curriculums, and better support and attention.

It makes sense to identify schools as needing improvement. There's nothing wrong with shining a light on areas that need improvement—even in the best schools. That doesn't mean they are failures.

But for the accountability provisions in the law to be useful, they must be accurate. We need accurate determinations of whether schools are making progress.

A full two years after passage of the No Child Left Behind Act, the Department of Education finally issued the regulations and guidance that schools need to accurately calculate accountability under the law. Those rules were a step in the right direction. They specifically addressed the achievement of children with disabilities and limited English proficient children.

The Department's rules were effective immediately, but many schools had already made their evaluations for the year as best they could. They shouldn't have had to make these assessments and calculations without adequate guidance. They certainly shouldn't be penalized for the Department's delay in issuing this guidance.

So far, 28,000 schools have been identified by States as failing to make adequate yearly progress. Many of those schools were identified in the 2002–2003 school year, before the new rule were released. A number of schools and districts identified as failing to make adequate yearly progress might have succeeded if the new rules had been in effect from the start. The Department's delay in issuing adequate rules and guidance has created unnecessary confusion, caused a potential mislabeling of schools, and misdirected resources from the schools and students who actually need them.

Some States have asked the Department of Education for permission to review their scores from last year under the new rules, and submit a more accurate calculation of accountability. Many of us in Congress have urged the Secretary of Education to apply the new regulations retroactively, so that States, school districts, and schools can review last year's data

On accountability and correct it if necessary. The Secretary of Education has refused, stating that he lacks the authority to do so.

This bill provides that authority. It enables the new regulations to be applied retroactively, so that schools will be judged on the same standards for the past year as they will be in the future, not by different criteria for different years.

Schools across the country are struggling to comply with the requirements of the No Child Left Behind Act. If we want schools to be held accountable, we need to make the process fair. I urge my colleagues to pass this legislation s soon as possible. Schools are waiting for our response. They don't deserve an unfair burden in complying with the act and improving their schools.

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. 2542

*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 ''No Child Left Behind Fairness Act of 2004''.

**SEC. 2. REVIEW OF ADEQUATE YEARLY PROGRESS DETERMINATIONS FOR SCHOOLS FOR THE 2002–2003 SCHOOL YEAR.**

(a) IN GENERAL.—The Secretary shall require each local educational agency to provide each school served by the agency with an opportunity to request a review of a determination by the agency that the school did not make adequate yearly progress for the 2002–2003 school year.

(b) FINAL DETERMINATION.—Not later than 30 days after receipt of a request by a school for a review under this section, a local educational agency shall issue and make publicly available a final determination on whether the school made adequate yearly progress for the 2002–2003 school year.

(c) EVIDENCE.—In conducting a review under this section, a local educational agency shall—

(1) allow the principal of the school involved to submit evidence on whether the school made adequate yearly progress for the 2002–2003 school year; and

(2) consider that evidence before making a final determination under subsection (b).

(d) STANDARD OF REVIEW.—In conducting a review under this section, a local educational agency shall revise, consistent with the applicable State plan under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), the local educational agency's original determination that a school did not make adequate yearly progress for the 2002–2003 school year if the agency finds that the school made such progress taking into consideration—

(1) the amendments made to part 200 of title 34 of the Code of Federal Regulations on December 9, 2003 (68 Fed. Reg. 68698) (relating to accountability for the academic achievement of students with the most significant cognitive disabilities); or

(2) any regulation or guidance that, subsequent to the date of such original determination, was issued by the Secretary relating to—

(A) the assessment of limited English proficient children;

(B) the inclusion of limited English proficient children as part of the subgroup described in section 1111(b)(2)(C)(v)(II)(dd) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)(dd)) after such children have obtained English proficiency; or

(C) any requirement under section 1111(b)(2)(I)(ii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(I)(ii)).

(e) EFFECT OF REVISED DETERMINATION.—

(1) IN GENERAL.—If pursuant to a review under this section a local educational agency determines that a school made adequate yearly progress for the 2002–2003 school year, upon such determination—

(A) any action by the Secretary, the State educational agency, or the local educational agency that was taken because of a prior determination that the school did not make such progress shall be terminated; and

(B) any obligations or actions required of the local educational agency or the school because of the prior determination shall cease to be required.

(2) EXCEPTIONS.—Notwithstanding paragraph (1), a determination under this section shall not affect any obligation or action required of a local educational agency or school under the following:

(A) Section 1116(b)(13) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(13)) (requiring a local educational agency to continue to permit a child who transferred to another school under such section to remain in that school until completion of the highest grade in the school).

(B) Section 1116(e)(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(e)(8)) (requiring a local educational agency to continue to provide supplemental educational services under such section until the end of the school year).

(3) SUBSEQUENT DETERMINATIONS.—In determining whether a school is subject to school improvement, corrective action, or restructuring as a result of not making adequate yearly progress, the Secretary, a State educational agency, or a local educational agency may not take into account a determination that the school did not make adequate yearly progress for the 2002–2003 school year if such determination was revised under this section and the school received a final determination of having made adequate yearly progress for the 2002–2003 school year.

(f) NOTIFICATION.—The Secretary—

(1) shall require each State educational agency to notify each school served by the agency of the school's ability to request a review under this section; and

(2) not later than 30 days after the date of the enactment of this section, shall notify the public by means of the Department of Education's website of the review process established under this section.

**SEC. 3. REVIEW OF ADEQUATE YEARLY PROGRESS DETERMINATIONS FOR LOCAL EDUCATIONAL AGENCIES FOR THE 2002–2003 SCHOOL YEAR.**

(a) IN GENERAL.—The Secretary shall require each State educational agency to provide each local educational agency in the State with an opportunity to request a review of a determination by the State educational agency that the local educational agency did not make adequate yearly progress for the 2002–2003 school year.

(b) APPLICATION OF CERTAIN PROVISIONS.—Except as inconsistent with, or inapplicable to, this section, the provisions of section 2 shall apply to review by a State educational agency of a determination described in subsection (a) in the same manner and to the same extent as such provisions apply to review by a local educational agency of a determination described in section 2(a).

**SEC. 4. DEFINITIONS.**

In this Act:

(1) The term ''adequate yearly progress'' has the meaning given to that term in section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)).

(2) The term ''local educational agency'' means a local educational agency (as that

term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.).

(3) The term ''Secretary'' means the Secretary of Education.

(4) The term ''school'' means an elementary school or a secondary school (as those terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) served under part A of title I of such Act (20 U.S.C. 6311 et seq.).

(5) The term ''State educational agency'' means a State educational agency (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.).

---

By Mr. THOMAS (for himself and Mr. BURNS):

S. 2543. A bill to establish a program and criteria for National Heritage Areas in the United States, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. THOMAS: Mr. President, I rise today to introduce the ''National Heritage Partnership Act.'' The first Heritage area was created on August 24, 1984—the Illinois and Michigan National Heritage Corridor. Little or no growth occurred in this program for the first 10 years. However, in the last couple of years the Congress has added 23 more Heritage areas!

The Park Service provides technical assistance and funding but Heritage areas are not National Parks. About 30 bills have been introduced this Congress to study or designate new areas. There are no Federal guidelines requiring what a heritage bill must contain, the program has very little requirements and it is out of control.

As a result, I have conducted two oversight hearings in the National Parks Subcommittee. I also had the General Accounting Office conduct a review of Heritage Areas. The following concerns were identified: individual areas are designated with specific legislation, but a National Heritage Area Program does not exist in the National Park Service; there are no official standards or criteria; existing heritage areas range in scope and size from ''Rivers of Steel'' in Pennsylvania to the entire State of Tennessee; the potential exists for unlimited designations which are impacting funding for other Park Service programs; and oversight and accountability of funding is lacking.

Today, I am introducing legislation with the Chairman of the Interior Appropriations Subcommittee which will establish National Heritage Area guidelines and criteria. The bill considers the recommendations from the GAO report about Heritage Areas and raises the standard for designation and requires specific criteria for national significance before an area can be designated. In addition, a cap has been placed on annual funding for the Heritage Area Program to avoid impacting other National Park Service programs.

This program is out of control. We are continuing to put unnecessary fiscal and resource demands on the Park Service. We have no established criteria to ensure the recognition of truly nationally significant areas. Consequently, we have compromised the integrity of all existing and future National Heritage Areas. I am pleased Senator BURNS has joined me in this effort and I look forward to moving this bill through the Senate in the near future.

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. 2543

*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 ''National Heritage Partnership Act''.

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



**SEC. 2. DEFINITIONS.**

In this Act:

(1) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the entity designated by Congress—

(A) to develop, in partnership with others, the management plan for a National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(2) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for a National Heritage Area designated by Congress that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with section 5.

(3) NATIONAL HERITAGE AREA.—The term ''National Heritage Area'' means an area designated by Congress that is nationally significant to the heritage of the United States and meets the criteria established under section 4(a).

(4) NATIONAL SIGNIFICANCE.—The term ''national significance'' means possession of—

(A) unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and

(B) a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.

(5) PROGRAM.—The term ''program'' means the National Heritage Areas program established under section 3(a).

(6) PROPOSED NATIONAL HERITAGE AREA.—The term ''proposed National Heritage Area'' means an area under study by the Secretary or other parties for potential designation by Congress as a National Heritage Area.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) SUITABILITY-FEASIBILITY STUDY.—The term ''suitability-feasibility study'' means a study conducted by the Secretary, or conducted by 1 or more other interested parties and reviewed by the Secretary, in accordance with the criteria and processes established under section 4, to determine whether an area meets the criteria to be designated as a National Heritage Area by Congress.

**SEC. 3. NATIONAL HERITAGE AREAS PROGRAM.**

(a) IN GENERAL.—Subject to the availability of funds, the Secretary shall establish a National Heritage Areas program under which the Secretary shall provide technical and financial assistance to local coordinating entities to support the establishment of National Heritage Areas.

(b) DUTIES.—Under the program, the Secretary shall—

(1)(A) conduct suitability-feasibility studies, as directed by Congress, to assess the suitability and feasibility of designating proposed National Heritage Areas; or

(B) review and comment on suitability-feasibility studies undertaken by other parties to make such assessment;

(2) provide technical assistance, on a reimbursable or non-reimbursable basis (as determined by the Secretary), for the development and implementation of management plans for designated National Heritage Areas;

(3) enter into cooperative agreements with interested parties to carry out this Act;

(4) provide information, promote understanding, and encourage research on National Heritage Areas in partnership with local coordinating entities;

(5) provide national oversight, analysis, coordination, and technical assistance and support to ensure consistency and accountability under the program; and

(6) submit annually to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the allocation and expenditure of funds for activities conducted with respect to National Heritage Areas under this Act.

**SEC. 4. SUITABILITY-FEASIBILITY STUDIES.**

(a) CRITERIA.—In conducting or reviewing a suitability-feasibility study, the Secretary shall apply the following criteria to determine the suitability and feasibility of designating a proposed National Heritage Area:

(1) An area—

(A) has an assemblage of natural, historic, cultural, educational, scenic, or recreational resources that together are nationally significant to the heritage of the United States;

(B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;

(C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;

(D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;

(E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;

(F) provides outstanding recreational or educational opportunities; and

(G) has resources and traditional uses that have national significance.

(2) Residents, business interests, nonprofit organizations, and governments (including relevant Federal land management agencies) within the proposed area are involved in the planning and have demonstrated significant support through letters and other means for National Heritage Area designation and management.

(3) The local coordinating entity responsible for preparing and implementing the management plan is identified.

(4) The proposed local coordinating entity and units of government supporting the designation are willing and have documented a

significant commitment to work in partnership to protect, enhance, interpret, fund, manage, and develop resources within the National Heritage Area.

(5) The proposed local coordinating entity has developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government) in the management of the National Heritage Area.

(6) The proposal is consistent with continued economic activity within the area.

(7) A conceptual boundary map has been developed and is supported by the public and participating Federal agencies.

(b) CONSULTATION.—In conducting or reviewing a suitability-feasibility study, the Secretary shall consult with the managers of any Federal land within the proposed National Heritage Area and secure the concurrence of the managers with the findings of the suitability-feasibility study before making a determination for designation.

(c) TRANSMITTAL.—On completion or receipt of a suitability-feasibility study for a National Heritage Area, the Secretary shall—

(1) review, comment, and make findings (in accordance with the criteria specified in subsection (a)) on the feasibility of designating the National Heritage Area;

(2) consult with the Governor of each State in which the proposed National Heritage Area is located; and

(3) transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the suitability-feasibility study, including—

(A) any comments received from the Governor of each State in which the proposed National Heritage Area is located; and

(B) a finding as to whether the proposed National Heritage Area meets the criteria for designation.

(d) DISAPPROVAL.—

(1) IN GENERAL.—If the Secretary determines that any proposed National Heritage Area does not meet the criteria for designation, the Secretary shall include within the suitability-feasibility study submitted under subsection (c)(3) a description of the reasons for the determination.

(2) OTHER FACTORS.—A finding by the Secretary that a proposed National Heritage Area meets the criteria for designation shall not preclude the Secretary from recommending against designation of the proposed National Heritage Area based on the budgetary impact of the designation or any other factor unrelated to the criteria.

(e) DESIGNATION.—The designation of a National Heritage Area shall be—

(1) by Act of Congress; and

(2) contingent on the prior completion of a suitability-feasibility study and an affirmative determination by the Secretary that the area meets the criteria established under subsection (a).

**SEC. 5. MANAGEMENT PLANS.**

(a) REQUIREMENTS.—The management plan for any National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national significance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this Act; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this Act until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this Act to implement an amendment to the management plan until the Secretary approves the amendment.

**SEC. 6. LOCAL COORDINATING ENTITIES.**

(a) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with section 5;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating committee receives Federal funds under this Act, specifying—

(A) the specific performance goals and accomplishments of the local coordinating committee;

(B) the expenses and income of the local coordinating committee;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this Act, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this Act to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal laws or programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this Act to acquire any interest in real property.

**SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.**

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

**SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.**

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to any local coordinating entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

**SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

(a) SUITABILITY-FEASIBILITY STUDIES.—There is authorized to be appropriated to conduct and review suitability-feasibility studies under section 4 $750,000 for each fiscal year, of which not more than $250,000 for any fiscal year may be used for any individual suitability-feasibility study for a proposed National Heritage Area.

(b) LOCAL COORDINATING ENTITIES.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out section 6 $15,000,000 for each fiscal year, of which not more than—

(A) $1,000,000 may be made available for any fiscal year for any individual National Heritage Area, to remain available until expended; and

(B) a total of $10,000,000 may be made available for all such fiscal years for any individual National Heritage Area.

(2) TERMINATION DATE.—

(A) IN GENERAL.—The authority of the Secretary to provide financial assistance to an individual local coordinating entity under this Act (excluding technical assistance and administrative oversight) shall terminate on the date that is 15 years after the date of the initial receipt of the assistance by the local coordinating committee.

(B) DESIGNATION.—A National Heritage Area shall retain the designation as a National Heritage Area after the termination date prescribed in subparagraph (A).

(3) ADMINISTRATION.—Not more than 5 percent of the amount of funds made available under paragraph (1) for a fiscal year may be used by the Secretary for technical assistance, oversight, and administrative purposes.

(c) MATCHING FUNDS.—

(1) IN GENERAL.—As a condition of receiving a grant under this Act, the recipient of the grant shall provide matching funds in an amount that is equal to the amount of the grant.

(2) ADMINISTRATION.—The recipient matching funds—

(A) shall be derived from non-Federal sources; and

(B) may be made in the form of in-kind contributions of goods or services fairly valued.

---

By Ms. STABENOW (for herself, Mrs. LINCOLN, and Mr. LEVIN):

S. 2544. A bill to provide for the certification of programs to provide uninsured employees of small businesses access to health coverage, and for other purposes; to the Committee on Finance.

Ms. STABENOW. Mr. President, today I rise to introduce the Health Care Access for Small Businesses Act of 2004. I am pleased to be joined in this endeavor by my colleagues, Senator LINCOLN and Michigan's senior Senator LEVIN. My bill would help small businesses provide health coverage for their employees, an important first step in providing access to health care for all Americans.

Last month, thousands of Americans participated in the annual Cover the Uninsured week, a discussion about the urgent need to cover the uninsured. The sheer breadth of the groups that participated in the unprecedented effort demonstrates the urgency of this issue. Labor unions were united with business groups, doctors with nurses, and charity health care providers with for-profit hospitals and insurance companies.

And yesterday, the consumer group Families USA and the governors of Iowa, Kansas, and Maine released even more disturbing news. Using Census Bureau data, they found that approximately 81.8 million Americans—one out of three people under 65 years of age—were uninsured at some point of time for the past two years. Almost two-thirds were uninsured for six months or more; and over half were uninsured for at least nine months.

We need to stop having discussions and start finding solutions. Too many hard working Americans are going without health insurance. There is a great misconception that uninsured Americans are largely unemployed or on welfare. That is simply not the case. More than 80 percent of uninsured Americans are part of working families, and almost half work for small businesses. If we can help small businesses cover their employees, we will have made great progress in covering the uninsured.

The bill I am introducing today is aimed at making coverage more affordable for employees of small businesses through what is called a ''three-share'' program. It would not impose any new funding mandates on state or local governments nor would it create new bureaucracy. It is an innovative community-based approach that could work throughout the country.

And it's aimed at ensuring primary care services are more available. We know that the primary care model through federally qualified health centers has been a tremendous success. This would build on this success by empowering communities—health care providers, small businesses, churches, civic groups—to form their own health care programs.

The three-share model is an innovative community-based idea that has been working across the U.S. from California to Arkansas to Maryland and, of course, Michigan. The name ''three-share'' stems from the program's payment structure. Premiums are shared between the employer who pays 30 percent, the employee who pays 30 percent, and the community which covers the remaining 40 percent of the cost.

In a three share model, a non-profit or local government entity serves as the manager of the plan. They design a benefit package by negotiating directly with providers or contracting through an insurance company. Then, they recruit small businesses that have not offered insurance coverage to their employees for the past year. The average cost for coverage is about $1,800 per year, much lower than the national average for commercial insurance, which on average costs about $3,400 for a single person and $9,000 for a family, according to the 2003 Kaiser survey of

employer benefits. Of the $1,800, the employer and employee would each pay approximately $540 and the community would pay about $720.

And they have been successful. For example, in Muskegon, Michigan, the three-share program Access Health has been working with about 400 small businesses to cover some 1,500 uninsured full and part-time employees. Wayne County has operated Health Choice for a decade. Although it is undergoing some changes, it has nearly 1,300 businesses enrolled and covers everyone from cab drivers, nail salon technicians, and nursing aides. Kent County, where Grand Rapids is located, began enrolling small businesses and employees in their program in 2002 and hope to grow to cover 2,500 individuals this year.

Different three share plans have received funds for the community portion from various places. In Michigan, most of the money has come from Medicaid funds. A plan in California uses money from the tobacco settlement, while a plan in Arkansas raises funds through church events and other community initiatives.

Unfortunately, despite the nuances that distinguish three share plans from one another, they all share a common challenge: they all lack a stable and sustainable funding source for the community share. This bill will help provide a steady stream of funding and analyze what three shares do right and how communities can develop their own three share model programs.

Insuring more working families will also take the pressure off state Medicaid budgets. Adequate care for those presently uninsured will also help slash the billions that is spent on uncompensated care.

Providing health care for these families fulfills a moral commitment. No one in America who gets up in the morning and goes to work should go to sleep at night fearful that an illness or injury in the family could wipe out everything they have worked hard for. This is a great nation, and together we can ensure that no American has to go without health care again.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2544

*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 ''Health Care Access for Small Businesses Act of 2004''.

**SEC. 2. THREE-SHARE PROGRAMS.**

The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following:

**''TITLE XXII—PROVIDING FOR THE UNINSURED**

**''SEC. 2201. THREE-SHARE PROGRAMS.**

''(a) PILOT PROGRAMS.—The Secretary, acting through the Administrator, shall award grants under this section for the startup and operation of 50 eligible three-share pilot programs for a 5-year period.

''(b) GRANTS FOR THREE-SHARE PROGRAMS.—

''(1) ESTABLISHMENT.—The Administrator may award grants to eligible entities—

''(A) to establish three-share programs;

''(B) to provide for contributions to the premiums assessed for coverage under a three-share program as provided for in subsection (c)(2)(B)(iii); and

''(C) to establish risk pools.

''(2) THREE-SHARE PROGRAM PLAN.—Each entity desiring a grant under this subsection shall develop a plan for the establishment and operation of a three-share program that meets the requirements of paragraphs (2) and (3) of subsection (c).

''(3) APPLICATION.—Each entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner and containing such information as the Administrator may require, including—

''(A) the three-share program plan described in paragraph (2); and

''(B) an assurance that the eligible entity will—

''(i) determine a benefit package;

''(ii) recruit businesses and employees for the three-share program;

''(iii) build and manage a network of health providers or contract with an existing network or licensed insurance provider;

''(iv) manage all administrative needs; and

''(v) establish relationships among community, business, and provider interests.

''(4) PRIORITY.—In awarding grants under this section the Secretary shall give priority to an applicant—

''(A) that is an existing three-share program;

''(B) that is an eligible three-share program that has demonstrated community support; or

''(C) that is located in a State with insurance laws and regulations that permit three-share program expansion.

''(c) GRANT ELIGIBILITY.—

''(1) IN GENERAL.—The Secretary, acting through the Administrator, shall promulgate regulations providing for the eligibility of three-share programs for participation in the pilot program under this section.

''(2) THREE-SHARE PROGRAM REQUIREMENTS.—

''(A) IN GENERAL.—To be determined to be an eligible three-share program for purposes of participation in the pilot program under this section a three-share program shall—

''(i) be either a non-profit or local governmental entity;

''(ii) define the region in which such program will provide services;

''(iii) have the capacity to carry out administrative functions of managing health plans, including monthly billings, verification/enrollment of eligible employers and employees, maintenance of membership rosters, development of member materials (such as handbooks and identification cards), customer service, and claims processing; and

''(iv) have demonstrated community involvement.

''(B) PAYMENT.—To be eligible under paragraph (1), a three-share program shall pay the costs of services provided under subparagraph (A)(ii) by charging a monthly premium for each covered individual to be divided as follows:

''(i) Not more than 30 percent of such premium shall be paid by a qualified employee desiring coverage under the three-share program.

''(ii) Not more than 30 percent of such premium shall be paid by the qualified employer of such a qualified employee.

''(iii) At least 40 percent of such premium shall be paid from amounts provided under a grant under this section.

''(iv) Any remaining amount shall be paid by the three-share program from other public, private, or charitable sources.

''(C) PROGRAM FLEXIBILITY.—A three-share program may set an income eligibility guideline for enrollment purposes.

''(3) COVERAGE.—

''(A) IN GENERAL.—To be an eligible three-share program under this section, the three-share program shall provide at least the following benefits:

''(i) Physicians services.

''(ii) In-patient hospital services.

''(iii) Out-patient services.

''(iv) Emergency room visits.

''(v) Emergency ambulance services.

''(vi) Diagnostic lab fees and x-rays.

''(vii) Prescription drug benefits.

''(B) LIMITATION.—Nothing in subparagraph (A) shall be construed to require that a three-share program provide coverage for services performed outside the region described in paragraph (2)(A)(i).

''(C) PREEXISTING CONDITIONS.—A program described in subparagraph (A) shall not be an eligible three-share program under paragraph (1) if any individual can be excluded from coverage under such program because of a preexisting health condition.

''(d) GRANTS FOR EXISTING THREE-SHARE PROGRAMS TO MEET CERTIFICATION REQUIREMENTS.—

''(1) IN GENERAL.—The Administrator may award grants to three-share programs that are operating on the date of enactment of this section.

''(2) APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator may require.

''(e) APPLICATION OF STATE LAWS.—Nothing in this section shall be construed to preempt State law.

''(f) DISTRESSED BUSINESS FORMULA.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Administrator of the Health Resources and Services Administration shall develop a formula to determine which businesses qualify as distressed businesses for purposes of this section.

''(2) EFFECT ON INSURANCE MARKET.—Granting eligibility to a distressed business using the formula under paragraph (1) shall not interfere with the insurance market. Any business found to have reduced benefits to qualify as a distressed business under the formula under paragraph (1) shall not be eligible to be a three-share program for purposes of this section.

''(g) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Health Resources and Services Administration.

''(2) COVERED INDIVIDUAL.—The term 'covered individual' means—

''(A) a qualified employee; or

''(B) a child under the age of 23 or a spouse of such qualified employee who—

''(i) lacks access to health care coverage through their employment or employer;

''(ii) lacks access to health coverage through a family member;

''(iii) is not eligible for coverage under the medicare program under title XVIII or the medicaid program under title XIX; and

''(iv) does not qualify for benefits under the State Children's Health Insurance Program under title XXI.

''(3) DISTRESSED BUSINESS.—The term 'distressed business' means a business that—

''(A) in light of economic hardship and rising health care premiums may be forced to discontinue or scale back its health care coverage; and

''(B) qualifies as a distressed business according to the formula under subsection (g).

''(4) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that meets the requirements of subsection (a)(2)(A).

''(5) QUALIFIED EMPLOYEE.—The term 'qualified employee' means any individual employed by a qualified employer who meets certain criteria including—

''(A) lacking access to health coverage through a family member or common law partner;

''(B) not being eligible for coverage under the medicare program under title XVIII or the medicaid program under title XIX; and

''(C) agreeing that the share of fees described in subsection (a)(2)(B)(i) shall be paid in the form of payroll deductions from the wages of such individual.

''(6) QUALIFIED EMPLOYER.—The term 'qualified employer' means an employer as defined in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)) who—

''(A) is a small business concern as defined in section 3(a) of the Small Business Act (15 U.S.C. 632);

''(B) is located in the region described in subsection (a)(2)(A)(i); and

''(C) has not contributed to the health care benefits of its employees for at least 12 months consecutively or currently provides insurance but is classified as a distressed business.

''(g) EVALUATION.—Not later than 90 days after the end of the 5-year period during which grants are available under this section, the General Accounting Office shall submit to the Secretary and the appropriate committees of Congress a report concerning—

''(1) the effectiveness of the programs established under this section;

''(2) the number of individuals covered under such programs;

''(3) any resulting best practices; and

''(4) the level of community involvement.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2005 through 2010.''.

---

By Mr. NELSON of Florida (for himself and Mr. ROCKEFELLER):

S. 2545. A bill to amend title XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individual's health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes; to the Committee on Finance.

Mr. NELSON of Florida. Mr. President, I am pleased to be joined by my colleague and cosponsor Senator JAY ROCKEFELLER as we introduce the Advance Directives Improvement and Education Act of 2004. Senators ROCKEFELLER and COLLINS, along with Senator WYDEN, sponsored a bill with similar goals in the 107th Congress and have provided invaluable support and counsel in drafting the bill we introduce today.

The Advance Directives Improvement and Education Act of 2004 has a simple purpose: to encourage all adults in America, especially those 65 and older, to think about, talk about and write down their wishes for medical care near the end-of-life should they become unable to make decisions for themselves. Advance directives, which include a living will, stating the individual's preferences for care, and a power of attorney for health care, are critical documents that each of us should have. The goal is clear, but reaching it requires that we educate the public about the importance of advance directives, offer opportunities for discussion of the issues, and reinforce the requirement that health care providers honor patients' wishes. This bill is designed to do just that.

Americans are afraid of death. We don't like to think about it, talk about it, or plan for it. Any yet, we will all face it. Not only our own deaths, but our parents, siblings, friends, and sometimes, tragically, children. Today, most Americans face death unprepared. Family members frequently end up making critical medical decisions for incapacitated patients, yet they, too, are unprepared. Only 15 to 20 percent of adults have advance directives. Among this group, many have not discussed the contents of these important documents with their families or even the person named as the health care proxy.

It is time to bring this discussion into the mainstream. Too much is at stake to continue to deny our mortality. You all know about the tragic situation going on in Florida with Terri Schiavo. Here is a young woman in a persistent vegetative state who is the subject of a debate about her treatment between her husband and her parents, a debate that has now become a court case and a legislative quagmire. Why? Because she didn't write down what type of care she would want in the event an accident, illness or other medical condition caused her to be in an incapacitated state. She is young and didn't think about death or dying. If she had an advance directive that made her wishes clear and named a health care proxy to make decisions for her should she be unable to do so for herself, the treatment debate might continue, but there would be no question as to who could decide. The Supreme Court has clearly affirmed that competent adults have the right to refuse unwanted medical treatment Washington v. Glucksburg and Vacco v. Quill, 1997, but it also stressed that advance directives are a means of safeguarding that right should adults become incapable of deciding for themselves.

Fortunately, situations like Mrs. Schiavo's are rare. Of the 2.5 million people who die each year 83 percent are Medicare beneficiaries. In fact, 27 percent of Medicare expenditures cover care in the last year of life. Remember, everyone who enrolls in Medicare will die on Medicare. The Advance Directives Improvement and Education Act encourages all Medicare beneficiaries to prepare advance directives by providing a free physician office visit for the purpose of discussing end-of-life care choices and other issues around medical decision-making in a time of incapacitation. Physicians will be reimbursed for spending time with their patients to help them understand situations in which an advance directive would be useful, medical options, the Medicare hospice benefit and other concerns. The conversation will also enable phyisicans to learn about their patients' wishes, fears, religious beliefs, and life experiences that might influence their medical care wishes. These are important aspects of a physician-patient relationship that are too often unaddressed.

Another part of our bill will provide funds for the Department of Health and Human Services to conduct a public education campaign to raise awareness of the importance of planning for care near the end of life. This campaign would explain what advance directives are, where they are available, what questions need to be asked and answered, and what to do with the executed documents. HHS, directly or through grants, would also establish an information clearinghouse where consumers could receive state-specific information and consumer-friendly documents and publications.

State-specific information is needed because in addition to the federal Patients Self-Determination Act passed in 1990, most states also have enacted advance directive laws. Because the state laws differ, some states may be reluctant to honor advance directives that were executed in another state. The bill we introduce today contains language that would make all advance directives ''portable,'' that is, useful from one state to another. As long as the documents were lawfully executed in the state of origin, they must be accepted and honored in the state in which they are presented, unless to do so would violate state law.

All of the provisions in the Advance Directives Improvement and Education Act of 2004 are there for one reason: to increase the number of people in the United States who have advance directives, who have discussed their wishes with their physicians and families, and who have given copies of the directives to their loved ones, health care providers, and legal representatives.

Senator ROCKEFELLER and I all believe that as our Medicare population grows and life expectancy lengthens, improving care near the end of life must be a priority. Helping people complete these critical documents is an essential part of making the final journey as meaningful and peaceful as possible.

Over the next decade or two our elderly population will grow. Baby-boomers, used to having control of

their lives and demanding the best, will be stunned to discover that good end-of-life care is hard to find. I recommend to all of you a report called Means to a Better End: A Report on Dying in America Today that was published in November 2002 by Last Acts Partnership. In it, every state and the District of Columbia was rated on eight different criteria to assess the state of end-of-life care in this country. Not one state—not mine, not yours—received a high grade. Some did well in one or two areas, but none did well in half or more of the measures; all were mediocre at best. The researchers found that too many people end their days in hospitals and nursing homes, attached to machines, alone, in pain. Doctors, not wanting to admit ''failure,'' as many of them see death, urge aggressive treatments such as chemotherapy on patients who have little chance of responding to it. Pain medication is often underprescribed or withheld for fear that the dying patient—dying patient—might become addicted to the drug.

The good news is that growing numbers of health care providers, nonprofit organizations and consumer advocates recognize the need for change. New palliative care programs, pain protocols and hospice services are being instituted in facilities around the country. Another Last Acts Partnership publication, On the Road from Theory to Practice highlights the best programs and practices for others to emulate.

This body is a legislative institution not a medical one—with the exception of the distinguished majority leader, of course. We cannot legislate good medical care or compassion. What we can do, what I hope we will do, is to enact this bill so that the American public can participate in improving end-of-life care—first, by filling out their own advice directives and talking to their families about them; and by raising their voices to demand that our health care systems honor their wishes and improve the way they care for people who are near the end of life. If we can do that, we will have done a great deal.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

Mr. President, I also ask that a letter of support for this legislation from the Last Acts Partnership also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2545

*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 ''Advance Directives Improvement and Education Act of 2004''.

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



**SEC. 2. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress makes the following findings:

(1) Every year 2,500,000 people die in the United States. Eighty percent of those people die in institutions such as hospitals, nursing homes, and other facilities. Chronic illnesses, such as cancer and heart disease, account for 2 out of every 3 deaths.

(2) In January 2004, a study published in the Journal of the American Medical Association concluded that many people dying in institutions have unmet medical, psychological, and spiritual needs. Moreover, family members of decedents who received care at home with hospice services were more likely to report a favorable dying experience.

(3) In 1997, the Supreme Court of the United States, in its decisions in Washington v. Glucksberg and Vacco v. Quill, reaffirmed the constitutional right of competent adults to refuse unwanted medical treatment. In those cases, the Court stressed the use of advance directives as a means of safeguarding that right should those adults become incapable of deciding for themselves.

(4) A study published in 2002 estimated that the overall prevalence of advance directives is between 15 and 20 percent of the general population, despite the passage of the Patient Self-Determination Act in 1990, which requires that health care providers tell patients about advance directives.

(5) Competent adults should complete advance care plans stipulating their health care decisions in the event that they become unable to speak for themselves. Through the execution of advance directives, including living wills and durable powers of attorney for health care according to the laws of the State in which they reside, individuals can protect their right to express their wishes and have them respected.

(b) PURPOSES.—The purposes of this Act are to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decision-making so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

**SEC. 3. MEDICARE COVERAGE OF END-OF-LIFE PLANNING CONSULTATIONS.**

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 642(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2322), is amended—

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

(2) in subparagraph (Z), by inserting ''and'' at the end; and

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

''(AA) end-of-life planning consultations (as defined in subsection (bbb));''.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 706(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2339), is amended by adding at the end the following new subsection:

''End-of-Life Planning Consultation

''(bbb) The term 'end-of-life planning consultation' means physicians' services—

''(1) consisting of a consultation between the physician and an individual regarding—

''(A) the importance of preparing advance directives in case an injury or illness causes the individual to be unable to make health care decisions;

''(B) the situations in which an advance directive is likely to be relied upon;

''(C) the reasons that the development of a comprehensive end-of-life plan is beneficial and the reasons that such a plan should be updated periodically as the health of the individual changes;

''(D) the identification of resources that an individual may use to determine the requirements of the State in which such individual resides so that the treatment wishes of that individual will be carried out if the individual is unable to communicate those wishes, including requirements regarding the designation of a surrogate decision maker (health care proxy); and

''(E) whether or not the physician is willing to follow the individual's wishes as expressed in an advance directive; and

''(2) that are furnished to an individual on an annual basis or immediately following any major change in an individual's health condition that would warrant such a consultation (whichever comes first).''.

(c) WAIVER OF DEDUCTIBLE AND COINSURANCE.—

(1) DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395*l*(b)) is amended—

(A) by striking ''and'' before ''(6)''; and

(B) by inserting before the period at the end the following: '', and (7) such deductible shall not apply with respect to an end-of-life planning consultation (as defined in section 1861(bbb))''.

(2) COINSURANCE.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395*l*(a)(1)) is amended—

(A) in clause (N), by inserting ''(or 100 percent in the case of an end-of-life planning consultation, as defined in section 1861(bbb))'' after ''80 percent''; and

(B) in clause (O), by inserting ''(or 100 percent in the case of an end-of-life planning consultation, as defined in section 1861(bbb))'' after ''80 percent''.

(d) PAYMENT FOR PHYSICIANS' SERVICES.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w–4(j)(3)), as amended by section 611(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2304), is amended by inserting ''(2)(AA),'' after ''(2)(W),''.

(e) FREQUENCY LIMITATION.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)), as amended by section 613(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2306), 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 end-of-life planning consultations (as defined in section 1861(bbb)), which are performed more frequently than is covered under paragraph (2) of such section;''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2005.

**SEC. 4. IMPROVEMENT OF POLICIES RELATED TO THE USE AND PORTABILITY OF ADVANCE DIRECTIVES.**

(a) MEDICARE.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting ''and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (3), by striking ''a written'' and inserting ''an''; and

(3) by adding at the end the following new paragraph:

''(5)(A) In addition to the requirements of paragraph (1), a provider of services, Medicare Advantage organization, or prepaid or eligible organization (as the case may be) shall give effect to an advance directive executed outside the State in which such directive is presented, even one that does not appear to meet the formalities of execution, form, or language required by the State in which it is presented to the same extent as such provider or organization would give effect to an advance directive that meets such requirements, except that a provider or organization may decline to honor such a directive if the provider or organization can reasonably demonstrate that it is not an authentic expression of the individual's wishes concerning his or her health care. Nothing in this paragraph shall be construed to authorize the administration of medical treatment otherwise prohibited by the laws of the State in which the directive is presented.

''(B) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(b) MEDICAID.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking ''in the individual's medical record'' and inserting ''in a prominent part of the individual's current medical record''; and

(ii) by inserting ''and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (4), by striking ''a written'' and inserting ''an''; and

(3) by adding at the end the following paragraph:

''(6)(A) In addition to the requirements of paragraph (1), a provider or organization (as the case may be) shall give effect to an advance directive executed outside the State in which such directive is presented, even one that does not appear to meet the formalities of execution, form, or language required by the State in which it is presented to the same extent as such provider or organization would give effect to an advance directive that meets such requirements, except that a provider or organization may decline to honor such a directive if the provider or organization can reasonably demonstrate that it is not an authentic expression of the individual's wishes concerning his or her health care. Nothing in this paragraph shall be construed to authorize the administration of medical treatment otherwise prohibited by the laws of the State in which the directive is presented.

''(B) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b) shall apply to provider agreements and contracts entered into, renewed, or extended under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and to State plans under title XIX of such Act (42 U.S.C. 1396 et seq.), on or after such date as the Secretary of Health and Human Services specifies, but in no case may such date be later than 1 year after the date of enactment of this Act.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

**SEC. 5. INCREASING AWARENESS OF THE IMPORTANCE OF END-OF-LIFE PLANNING.**

Title III of the Public Health Service Act is amended by adding at the end the following new part:

**''PART R—PROGRAMS TO INCREASE AWARENESS OF ADVANCE DIRECTIVE PLANNING ISSUES**

**''SEC. 399Z–1. ADVANCE DIRECTIVE EDUCATION CAMPAIGNS AND INFORMATION CLEARINGHOUSES.**

''(a) ADVANCE DIRECTIVE EDUCATION CAMPAIGN.—The Secretary shall, directly or through grants awarded under subsection (c), conduct a national public education campaign—

''(1) to raise public awareness of the importance of planning for care near the end of life;

''(2) to improve the public's understanding of the various situations in which individuals may find themselves if they become unable to express their health care wishes;

''(3) to explain the need for readily available legal documents that express an individual's wishes, through advance directives (including living wills, comfort care orders, and durable powers of attorney for health care); and

''(4) to educate the public about the availability of hospice care and palliative care.

''(b) INFORMATION CLEARINGHOUSE.—The Secretary, directly or through grants awarded under subsection (c), shall provide for the establishment of a national, toll-free, information clearinghouse as well as clearinghouses that the public may access to find out about State-specific information regarding advance directive and end-of-life decisions.

''(c) GRANTS.—

''(1) IN GENERAL.—The Secretary shall use at least 60 percent of the funds appropriated under subsection (d) for the purpose of awarding grants to public or nonprofit private entities (including States or political subdivisions of a State), or a consortium of any of such entities, for the purpose of conducting education campaigns under subsection (a) and establishing information clearinghouses under subsection (b).

''(2) PERIOD.—Any grant awarded under paragraph (1) shall be for a period of 3 years.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000.''.

**SEC. 6. GAO STUDIES AND REPORTS ON END-OF-LIFE PLANNING ISSUES.**

(a) STUDY AND REPORT ON COMPLIANCE WITH ADVANCE DIRECTIVES AND OTHER ADVANCE PLANNING DOCUMENTS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the effectiveness of advance directives in making patients' wishes known and honored by health care providers.

(2) REPORT.—Not later than the date that is 18 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on this study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General determines to be appropriate.

(b) STUDY AND REPORT ON ESTABLISHMENT OF NATIONAL ADVANCE DIRECTIVE REGISTRY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the implementation of the amendments made by section 3 (relating to medicare coverage of end-of-life planning consultations).

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on this study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General determines to be appropriate.

(c) STUDY AND REPORT ON ESTABLISHMENT OF NATIONAL ADVANCE DIRECTIVE REGISTRY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the feasibility of a national registry for advance directives, taking into consideration the constraints created by the privacy provisions enacted as a result of the Health Insurance Portability and Accountability Act.

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on this study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General determines to be appropriate.

---

LAST ACTS PARTNERSHIP,
*Washington, DC, June 17, 2004.*

Senator BILL NELSON,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR NELSON: On behalf of Last Acts Partnership, a national nonprofit organization dedicated to improving care and

caring near the end of life, I thank you for introducing the ''Advance Directives Improvement and Education Act of 2004.'' Your recognition of the importance of advance care planning and your leadership in crafting this legislation is greatly appreciated. We applaud your commitment to educating Americans about the need for these critical documents and support the goal of encouraging all Medicare beneficiaries to discuss advance directives with their physicians and families.

A life-threatening or terminal illness or a tragic accident takes its toll not only on the patient but on his or her family as well. After more than 60 years of working in the end-of-life care field, Last Acts Partnership (formerly Partnership for Caring and Choice in Dying) knows full well how much worse it is when people are asked to make decisions for a loved one having never discussed his or her wishes for care at the end of life. Advance directives and the necessary conversations that should accompany them are a gift to guide those who find themselves responsible for another's care.

Ensuring that each of us receives the kind of care we want if we are incapacitated or approaching death must be a policy priority as we look to the future of health care. The portability provision in your bill is another necessary step toward that goal. Providing an information clearinghouse is also key because too many people, including health care providers, are unaware of options such as hospice and palliative care, home care, spiritual counseling and other resources.

Again, Senator, we thank you, your cosponsors, and all of the senators who join in support of this important legislation. Last Acts Partnership looks forward to assisting you and your staff as it moves through the legislative process. Our membership and our collegial organizations will be working to support the passage of the ''Advance Directives Improvement and Education Act of 2004'' and, more importantly, to assure that the health care wishes of our loved ones and ourselves will be honored.

Sincerely,

KAREN ORLOFF KAPLAN, MSW, MPH, ScD,
*President and CEO.*

---

By Mr. DURBIN:

S. 2546. A bill to amend the Federal Food, Drug, and Cosmetic Act to require premarket consultation and approval with respect to genetically engineered foods, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, today I am introducing legislation that will strengthen consumer confidence in the safety of genetically engineered food and genetically engineered animals that may enter the food supply. This bill, known as the Genetically Engineered Food Act (GEFA) of 2004, requires the Federal Food and Drug Administration (FDA) to conduct an environmental and safety review of all genetically engineered plants and animals that may enter the food supply.

Our country has been blessed with one of the safest and most abundant food supplies in the world but we can do better. Genetically engineered foods have become a major portion of the American food supply and promise to become a larger part in the future. The next generation of genetically engineered foods will be more complex, will possess more novel genetic variations and will challenge regulatory agencies' ability to assess and manage their food safety and potential environmental effects.

Currently, the FDA screens genetically engineered foods through a voluntary consultation program. Despite assurances from the FDA for the past two years that the proposed and more stringent ''pre-market biotechnology notification'' (PBN) rules governing genetically engineered foods were imminent, those rules have yet to appear.

The Genetically Engineered Food Act of 2004 will create a transparent process that promotes public participation as decisions are made regarding the safety and environmental impact of genetically engineered plants and animals.

This bill will make the review process mandatory in place of the current voluntary system, which will reduce the chance that a potentially harmful product could bypass or receive inadequate regulatory oversight. The measure will establish unambiguous and predictable pathways for developers of genetically modified foods to gain approval to go to market and will ensure consumer confidence in the integrity of the system through a fully transparent review process.

An improved regulatory system for genetically engineered foods will boost consumer confidence in biotechnology derived foods, give federal agencies clear legal authority to deal with new technology and provide a process to detect problems even after genetically engineered foods are approved.

The Genetically Engineered Food Act of 2004 will strengthen government oversight in several important ways.

Mandatory Review: Producers of genetically engineered foods will be required to receive approval from the FDA before introducing their products into interstate commerce. The FDA will ensure, based on the best scientific evidence, that genetically engineered foods are just as safe as comparable food products before allowing them on the market.

Public Involvement and Transparency: In order for our country to gain the benefits that genetically engineered plants and animals can offer as additional sources of food, public confidence must be maintained in the safety of these products. My bill will provide for public involvement in the approval process by providing information to consumers, and giving them the opportunity to provide comments. Adding transparency will increase the public's understanding and confidence in the safety of these animals as they enter the food supply.

Scientific studies and other materials submitted to the FDA as part of the mandatory review of genetically engineered foods will be made available for public review and comment. Members of the public will be able to submit any new information on genetically engineered foods not previously available to the FDA and request a new review of a particular genetically engineered food product even if that food is already on the market.

Testing: The FDA, in conjunction with other Federal agencies, will be given the authority to conduct scientifically-sound testing to determine whether genetically engineered foods are inappropriately entering the food supply.

Communication: The FDA and other Federal agencies will establish a registry of genetically engineered foods for easy access to information about those foods that have been cleared for market. The genetically engineered food review process will be fully transparent to give the public access to all non-confidential information.

Environmental Review with Respect to Animals: While genetically engineered foods such as corn and soybeans are already part of our food supply, genetically engineered animals will also soon be ready for market approval. These animals hold much promise as an additional source of food for our nation. However, we must ensure not only the safety of these genetically engineered animals as they enter the food supply, but also the impact of these animals as they come in contact with the environment.

The provisions of my bill are consistent with the recommendations made in the 2004 National Academy of Sciences report, ''Biological Confinement of Genetically Engineered Organisms''; the Pew Initiative on Food and Biotechnology 2004 report, ''Issues in the Regulation of Genetically Engineered Plants and Animals''; and the 2004 report from the Ecological Society of America, ''Genetically Engineered Organisms and the Environment''.

The FDA has a mandatory review process in place that is used to review the food safety of genetically engineered animals before they enter the food supply. However, this bill will provide the FDA with additional oversight authorities to address the potential environmental impact of genetically engineered animals prior to their safety approval.

Environmental issues have been identified as a major science-based concern associated with genetically engineered animals. Therefore, to obtain approval to market a genetically engineered animal, the developer must include an environmental assessment that analyzes the potential effects of the genetically engineered animal on the environment. A plan must also be in place to reduce or eliminate any negative effects. If the environmental assessment is not adequate, approval will not be granted.

I urge my colleagues to join me in this effort to strengthen consumer confidence in the safety of genetically engineered foods and genetically engineered animals that may enter the food supply. The Genetically Engineered Foods Act of 2004 will help provide the public with the added assurance that

genetically engineered foods and animals are safe to produce and consume. I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2546

*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 ''Genetically Engineered Foods Act''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) genetically engineered food is rapidly becoming an integral part of domestic and international food supplies;

(2) the potential positive effects of genetically engineered foods are enormous;

(3) the potential for both anticipated and unanticipated effects exists with genetic engineering of foods;

(4) genetically engineered food not approved for human consumption has, in the past, entered the human food supply;

(5) environmental issues have been identified as a major science-based concern associated with animal biotechnology;

(6) it is essential to maintain—

(A) public confidence in—

(i) the safety of the food supply; and

(ii) the ability of the Federal Government to exercise adequate oversight of genetically engineered foods; and

(B) the ability of agricultural producers and other food producers of the United States to market, domestically and internationally, foods that have been genetically engineered;

(7) public confidence can best be maintained through careful review and formal determination of the safety of genetically engineered foods, and monitoring of the positive and negative effects of genetically engineered foods as the foods become integrated into the food supply, through a review and monitoring process that—

(A) is scientifically sound, open, and transparent;

(B) fully involves the general public; and

(C) does not subject most genetically engineered foods to the lengthy food additive approval process; and

(8) because genetically engineered foods are developed worldwide and imported into the United States, it is imperative that imported genetically engineered food be subject to the same level of oversight as domestic genetically engineered food.

**SEC. 3. DEFINITIONS.**

(a) THIS ACT.—In this Act, the terms ''genetic engineering technique'', ''genetically engineered animal'', ''genetically engineered food'', ''interstate commerce'', ''producer'', ''safe'', and ''Secretary'' have the meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) (as amended by subsection (b)).

(b) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended—

(1) in subsection (v)—

(A) by striking ''(v) The term'' and inserting the following:

''(v) NEW ANIMAL DRUG.—

''(1) IN GENERAL.—The term'';

(B) by striking ''(1) the composition'' and inserting ''(A) the composition'';

(C) by striking ''(2) the composition'' and inserting ''(B) the composition''; and

(D) by adding at the end the following:

''(2) INCLUSION.—The term 'new animal drug' includes—

''(A) a genetic engineering technique intended to be used to produce an animal; and

''(B) a genetically engineered animal.''; and

(2) by adding at the end the following:

''(nn) GENETICALLY ENGINEERED ANIMAL.—

(1) IN GENERAL.—The term 'genetically engineered animal' means an animal that—

''(A) is intended to be used—

''(i) in the production of a food or dietary supplement; or

''(ii) for any other purpose;

''(B)(i) is produced in the United States; or

''(ii) is offered for import into the United States; and

''(C) is produced using a genetic engineering technique.

''(2) EXCLUSION.—The term 'genetically engineered animal' does not include an established line of a genetically modified animal that—

''(A) is used solely in scientific research; and

''(B) is not intended or expected—

''(i) to enter the food supply; or

''(ii) to be released into the environment.

''(oo) GENETICALLY ENGINEERED FOOD.—

''(1) IN GENERAL.—The term 'genetically engineered food' means a food or dietary supplement, or a seed, microorganism, or ingredient intended to be used to produce a food or dietary supplement, that—

''(A)(i) is produced in the United States; or

''(ii) is offered for import into the United States; and

''(B) is produced using a genetic engineering technique.

''(2) INCLUSION.—The term 'genetically engineered food' includes a split use food.

''(3) EXCLUSION.—The term 'genetically engineered food' does not include a genetically engineered animal.

''(pp) GENETIC ENGINEERING TECHNIQUE.—The term 'genetic engineering technique' means the use of a transformation event to derive food from a plant or animal or to produce an animal.

''(qq) PRODUCER.—The term 'producer', with respect to a genetically engineered animal, genetically engineered food, or genetic engineering technique, means a person that—

''(1) develops, manufactures, or imports the genetically engineered animal or genetically engineered food;

''(2) uses the genetic engineering technique; or

''(3) takes other action to introduce the genetically engineered animal, genetically engineered food, or genetic engineering technique into interstate commerce.

''(rr) SAFE.—The term 'safe', with respect to a genetically engineered food, means—

''(1) as safe as comparable food that is not produced using a genetic engineering technique; or

''(2) if there is no such comparable food, having a reasonable certainty of causing no harm.

''(ss) SPLIT USE FOOD.—The term 'split use food' means a product that—

''(1)(A) is produced in the United States; or

''(B) is offered for import into the United States;

''(2) is produced using a genetic engineering technique; and

''(3) could be used as food by both humans and animals but that the producer does not intend to market as food for humans.

''(tt) TRANSFORMATION EVENT.—The term 'transformation event' means the introduction into a plant or an animal of genetic material that has been manipulated in vitro.''.

**SEC. 4. GENETICALLY ENGINEERED FOODS.**

Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended—

(1) by inserting after the chapter heading the following:

**''Subchapter A—General Provisions''; and**

(2) by adding at the end the following:

**''Subchapter B—Genetically Engineered Foods**

**''SEC. 421. PREMARKET CONSULTATION AND APPROVAL.**

''(a) IN GENERAL.—A producer of genetically engineered food, before introducing a genetically engineered food into interstate commerce, shall first obtain approval through the use of a premarket consultation and approval process.

''(b) REGULATIONS.—The Secretary shall promulgate regulations that describe—

''(1) all information that is required to be submitted for the premarketing approval process, including—

''(A) specification of the species or other taxonomic classification of plants for which approval is sought;

''(B) identification of the genetically engineered food;

''(C)(i) a description of each type of genetic manipulation made to the genetically engineered food;

''(ii) identification of the manipulated genetic material; and

''(iii) the techniques used in making the manipulation;

''(D) the effect of the genetic manipulation on the composition of the genetically engineered food (including information describing the specific substances that were expressed, removed, or otherwise manipulated);

''(E) a description of the actual or proposed applications and uses of the genetically engineered food;

''(F) information pertaining to—

''(i) the safety of the genetically engineered food as a whole; and

''(ii) the safety of any specific substances introduced, altered, or produced as a result of the genetic manipulation (including information on allergenicity and toxicity);

''(G) test methods for detection of the genetically engineered ingredients in food;

''(H) a summary and overview of information and issues that have been or will be addressed by other regulatory programs for the review of genetically engineered food;

''(I) procedures to be followed to initiate and complete the premarket approval process (including any preconsultation and consultation procedures); and

''(J) any other matters that the Secretary determines to be necessary.

''(2) SPLIT USE FOOD.—

''(A) IN GENERAL.—The regulations under paragraph (1) shall provide for the approval of—

''(i) split use foods that are not approved for human consumption;

''(ii) split use foods that are intended for human use but are marketed under restricted conditions; and

''(iii) other categories of split use food.

''(B) ISSUES.—For each category of split use food, the regulations shall address—

''(i)(I) whether a protocol is needed for segregating a restricted split use food from the food supply; and

''(II) if so, what the protocol shall be;

''(ii)(I) whether action is needed to ensure the purity of any seed to prevent unintended introduction of a genetically engineered trait into a seed that is not designed for that trait; and

''(II) if so, what action is needed and what industry practices represent the best practices for maintaining the purity of the seed;

''(iii)(I) whether a tolerance level should exist regarding cross-mixing of segregated split use foods; and

''(II) if so, the means by which the tolerance level shall be determined;

''(iv) the manner in which the food safety analysis under this section should be conducted, specifying different standards and procedures that are permitted to be applied for nonfood products grown in food crops depending on the degree of containment for that product and the likelihood of the product to enter the food supply;

''(v)(I) the kinds of surveillance that are needed to ensure that appropriate segregation of split use foods is being maintained;

''(II) the manner in which and by whom the surveillance shall be conducted; and

''(III) the manner in which the results of surveillance shall be reported; and

''(vi) clarification of responsibility in cases of breakdown of segregation of a split use food.

''(C) RECALL AUTHORITY.—The regulations shall provide that, in addition to other authority that the Secretary has regarding split use food, the Secretary may order a recall of any split use food (whether or not the split use food has been approved under this section) that—

''(i) is not approved, but has entered the food supply; or

''(ii) has entered the food supply in violation of a condition of restriction under an approval.

''(c) APPLICATION.—The regulations shall require that, as part of the consultation and approval process, a producer submit to the Secretary an application that includes a summary and a complete copy of each research study, test result, or other information referenced by the producer.

''(d) REVIEW.—

''(1) IN GENERAL.—After receiving an application under subsection (c), the Secretary shall—

''(A) determine whether the producer submitted information that appears to be adequate to enable the Secretary to fully assess the safety of the genetically engineered food, and make a description of the determination publicly available; and

''(B) if the Secretary determines that the producer submitted adequate information—

''(i) provide public notice regarding the initiation of the consultation and approval process;

''(ii) make the notice, application, summaries submitted by the producer, and research, test results, and other information referenced by the producer publicly available, including, to the maximum extent practicable, publication in the Federal Register and on the Internet; and

''(iii) provide the public with an opportunity, for not less than 45 days, to submit comments on the application.

''(2) EXCEPTION.—The Secretary may withhold information in an application from public dissemination to protect a trade secret (not including any information disclosing the results of testing to determine whether the genetically engineered food is safe) if—

''(A) the information is exempt from disclosure under section 522 of title 5, United States Code, or applicable trade secret law;

''(B) the applicant—

''(i) identifies with specificity the trade secret information in the application; and

''(ii) provides the Secretary with a detailed justification for each trade secret claim; and

''(C) the Secretary—

''(i) determines that the information qualifies as a trade secret subject to withholding from public dissemination; and

''(ii) makes the determination available to the public.

''(3) DETERMINATION.—Not later than 180 days after determining adequacy of an application under paragraph (1)(A), the Secretary shall issue and make publicly available a determination that—

''(A) summarizes the information referenced by the producer in light of the public comments; and

''(B) contains a finding that the genetically engineered food—

''(i) is safe and may be introduced into interstate commerce;

''(ii) is safe under specified conditions of use and may be introduced into interstate commerce if those conditions are met; or

''(iii) is not safe and may not be introduced into interstate commerce, because the genetically engineered food—

''(I) contains genes that confer antibiotic resistance;

''(II) contains an allergen; or

''(III) presents 1 or more other safety concerns described by the Secretary.

''(4) EXTENSION.—The Secretary may extend the period specified in paragraph (3) if the Secretary determines that an extension of the period is necessary to allow the Secretary to—

''(A) review additional information; or

''(B) address 1 or more issues or concerns of unusual complexity.

''(e) RESCISSION OF APPROVAL.—

''(1) RECONSIDERATION.—On the petition of any person, or on the Secretary's own motion, the Secretary may reconsider an approval of a genetically engineered food on the basis of information that was not available before the approval.

''(2) FINDING FOR RECONSIDERATION.—The Secretary shall conduct a reconsideration on the basis of the information described in paragraph (1) if the Secretary finds that the information—

''(A) is scientifically credible;

''(B) represents significant information that was not available before the approval; and

''(C)(i) suggests potential impacts relating to the genetically engineered food that were not considered in the earlier review; or

''(ii) demonstrates that the information considered before the approval was inadequate for the Secretary to make a safety finding.

''(3) INFORMATION FROM THE PRODUCER.—

''(A) IN GENERAL.—In conducting the reconsideration, the Secretary may require the producer to provide, within a reasonable period of time specified by the Secretary, information needed to facilitate the reconsideration.

''(B) INFORMATION NOT PROVIDED.—If a producer fails to provide information required under subparagraph (A) within the period specified by the Secretary, the Secretary shall take 1 or more of the actions described in paragraph (5).

''(4) DETERMINATION.—After reviewing the information by the petitioner and the producer, the Secretary shall issue a determination that—

''(A) revises the finding made in connection with the approval with respect to the safety of the genetically engineered food; or

''(B) states that, for reasons stated by the Secretary, no revision of the finding is needed.

''(5) ACTION BY THE SECRETARY.—If, based on a reconsideration under this section, the Secretary determines that the genetically engineered food is not safe, the Secretary shall—

''(A) rescind the approval of the genetically engineered food for introduction into interstate commerce;

''(B) recall the genetically engineered food; or

''(C) take such other action as the Secretary determines to be appropriate.

**''SEC. 422. MARKETPLACE TESTING AND POST-MARKETING OVERSIGHT.**

''(a) TESTING.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall establish a program to conduct testing that the Secretary determines to be necessary to detect, at all stages of production and distribution (from agricultural production to retail sale), the presence of genetically engineered ingredients in food.

''(2) PERMISSIBLE TESTING.—Under the program, the Secretary may conduct tests on foods to detect genetically engineered ingredients—

''(A) that have not been approved for use under this Act, including foods that are developed in foreign countries that have not been approved for marketing in the United States under this Act; or

''(B) the use of which is restricted under this Act (including approval for use as animal feed only, approval only if properly labeled, and approval for growing or marketing only in certain regions).

''(b) POST-MARKET OVERSIGHT.—

''(1) IN GENERAL.—The Secretary shall establish a program to monitor and evaluate the continued safety after commercialization of genetically engineered foods approved under section 421.

''(2) ACTIVITIES.—Under the program, the Secretary shall—

''(A) take appropriate actions to ensure that each split-use food complies with any restriction or other condition on the approval of the split-use food; and

''(B) conduct inspections and monitoring of genetically engineered foods and facilities that produce genetically engineered foods to ensure that only approved genetically engineered foods are marketed to humans.

**''SEC. 423. REGISTRY.**

''(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other agencies, as appropriate, shall establish a registry for genetically engineered food that contains a description of the regulatory status of all genetically engineered foods approved under section 421.

''(b) REQUIREMENTS.—The registry under subsection (a) shall contain, for each genetically engineered food—

''(1) the technical and common names of the genetically engineered food;

''(2) a description of the regulatory status, under all Federal programs pertaining to the testing and approval of genetically engineered foods, of the genetically engineered food;

''(3) a technical and nontechnical summary of the type of, and a statement of the reason for, each genetic manipulation made to the genetically engineered food;

''(4) the name, title, address, and telephone number of an official at each producer of the genetically engineered food whom members of the public may contact for information about the genetically engineered food;

''(5) the name, title, address, and telephone number of an official at each Federal agency with oversight responsibility over the genetically engineered food whom members of the public may contact for information about the genetically engineered food; and

''(6) such other information as the Secretary determines should be included.

''(c) PUBLIC AVAILABILITY.—The registry under subsection (a) shall be made available to the public, including availability on the Internet.''.

**SEC. 5. GENETICALLY ENGINEERED ANIMALS.**

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 512 the following:

**''SEC. 512A. GENETICALLY ENGINEERED ANIMALS.**

''(a) IN GENERAL.—Section 512 shall apply to genetic engineering techniques intended to be used to produce an animal, and to genetically engineered animals, as provided in this section.

''(b) APPLICATION.—An application under section 512(b)(1) shall include—

''(1) specification of the species or other taxonomic classification of the animal for which approval is sought;

''(2) an environmental assessment that analyzes the potential effects of the genetically engineered animal on the environment, including the potential effect on any nongenetically engineered animal or other part of the environment as a result of any intentional or unintentional exposure of the genetically engineered animal to the environment; and

''(3) a plan to eliminate or mitigate the potential effects to the environment from the release of the genetically engineered animal.

''(c) DISSEMINATION OF APPLICATION AND OPPORTUNITY FOR PUBLIC COMMENT.—

''(1) IN GENERAL.—On receipt of an application under section 512(b)(1), the Secretary shall—

''(A) provide public notice regarding the application, including making the notice available on the Internet;

''(B) make the application and all supporting material available to the public, including availability on the Internet; and

''(C) provide the public with an opportunity, for not less than 45 days, to submit comments on the application.

''(2) EXCEPTION.—

''(A) IN GENERAL.—The Secretary may withhold information in an application from public dissemination to protect a trade secret (not including any information disclosing the results of testing to determine whether the genetically engineered food is safe) if—

''(i) the information is exempt from disclosure under section 522 of title 5, United States Code, or applicable trade secret law;

''(ii) the applicant—

''(I) identifies with specificity the trade secret information in the application; and

''(II) provides the Secretary with a detailed justification for each trade secret claim; and

''(iii) the Secretary—

''(I) determines that the information qualifies as a trade secret subject to withholding from public dissemination; and

''(II) makes the determination available to the public.

''(B) RISK ASSESSMENT INFORMATION.—This paragraph does not apply to information that assesses risks from the release into the environment of a genetically engineered animal (including any environmental assessment or environmental impact statement performed to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)).

''(d) DENIAL OF APPLICATION.—Under section 512(d)(1), the Secretary shall deny an application if—

''(1) the environmental assessment for a genetically engineered animal is not adequate; or

''(2) the plan to eliminate or mitigate the potential environmental effects to the environment from the release of the genetically engineered animal does not adequately protect the environment.

''(e) ENVIRONMENTAL ASSESSMENT.—

''(1) IN GENERAL.—Before determining whether to approve an application under section 512 for approval of a genetic engineering technique intended to be used to produce an animal, or of a genetically engineered animal, the Secretary shall—

''(A) conduct an environmental assessment to evaluate the potential effects of such a genetically engineered animal on the environment; and

''(B) determine that the genetically engineered animal will not have an unreasonable adverse effect on the environment.

''(2) CONSULTATION.—In conducting an environmental assessment under paragraph (1), the Secretary shall—

''(A) consult, as appropriate, with the Department of Agriculture, the United States Fish and Wildlife Service, and any other Federal agency that has expertise relating to the animal species that is the subject of the application; and

''(B) disclose the results of the consultation in the environmental assessment.

''(f) SAFETY DETERMINATION.—In determining the safety of a genetic engineering technique or genetically engineered animal, the Secretary shall consider the potential effects of the genetically engineered animal on the environment, including the potential effect on nongenetically engineered animals.

''(g) PROGENY.—If an application for approval of a genetic engineering technique to produce an animal of a species or other taxonomic classification, or genetically engineered animal, has been approved, no additional application shall be required for animals of that species or other taxonomic classification produced using that genetic engineering technique or for the progeny of that genetically engineered animal.

''(h) SCOPE OF APPROVAL.—The scope of the genetic engineering technique that the Secretary may approve shall be limited to the precise procedures described in the application for approval.

''(i) CONDITIONS OF APPROVAL.—The Secretary may require as a condition of approval of an application that any producer of a genetically engineered animal that is the subject of the application—

''(1) take specified actions to eliminate or mitigate any potential harm to the environment that would be caused by a release of the genetically engineered animal, including actions specified in the plan submitted by the applicant; and

''(2) conduct post-approval monitoring for environmental effects of any release of the genetically engineered animal.

''(j) RECALL; SUSPENSION OF APPROVAL.—

''(1) RECALL.—The Secretary may order a recall of any genetically engineered animal (whether or not the genetically engineered animal, or a genetic engineering technique used to produce the genetically engineered animal, has been approved) that the Secretary determines is harmful to—

''(A) humans;

''(B) the environment;

''(C) any animal that is subjected to a genetic engineering technique; or

''(D) any animal that is not subjected to a genetic engineering technique.

''(2) SUSPENSION OF APPROVAL.—If the Secretary determines that a genetically engineered animal is harmful to the health of humans or animals or to the environment, the Secretary may—

''(A) immediately suspend the approval of application for the genetically engineered animal;

''(B) give the applicant prompt notice of the action; and

''(C) afford the applicant an opportunity for an expedited hearing.

''(k) RESCISSION OF APPROVAL.—

''(1) RECONSIDERATION.—On the motion of any person, or on the Secretary's own motion, the Secretary may reconsider an approval of a genetic engineering technique or genetically engineered animal on the basis of information that was not available during an earlier review.

''(2) FINDING FOR RECONSIDERATION.—The Secretary shall conduct a reconsideration on the basis of the information described in paragraph (1) if the Secretary finds that the information—

''(A) is scientifically credible;

''(B) represents significant information that was not available before the approval; and

''(C)(i) suggests potential impacts relating to the genetically engineered animal that were not considered before the approval; or

''(ii) demonstrates that the information considered before the approval was inadequate for the Secretary to make a safety finding.

''(3) INFORMATION FROM THE PRODUCER.—

''(A) IN GENERAL.—In conducting the reconsideration, the Secretary may require the producer to provide, within a reasonable period of time specified by the Secretary, information needed to facilitate the reconsideration.

''(B) INFORMATION NOT PROVIDED.—If a producer fails to provide information required under subparagraph (A) within the period specified by the Secretary, the Secretary shall take 1 or more of the actions described in paragraph (5).

''(4) DETERMINATION.—After reviewing the information by the petitioner and the producer, the Secretary shall issue a determination that—

''(A) revises the finding made in connection with the approval with respect to the safety of the genetically engineered animal; or

''(B) states that, for reasons stated by the Secretary, no revision of the finding is needed.

''(5) ACTION BY THE SECRETARY.—If, based on a review under this subsection, the Secretary determines that the genetically engineered animal is not safe, the Secretary shall—

''(A) rescind the approval of the genetic engineering technique or genetically engineered animal for introduction into interstate commerce;

''(B) recall the genetically engineered animal; or

''(C) take such other action as the Secretary determines to be appropriate.

''(l) ANIMALS USED IN DEVELOPMENT.—An animal that is used in connection with an investigation intended to support approval of an application under section 512 and this section or that is otherwise used in connection with the development of a genetic engineering technique or production of a genetically engineered animal for which approval is sought shall be deemed unsafe for the purposes of sections 501(a)(5) and 402(a)(2)(C)(ii) unless—

''(1) the applicant submits information required by the Secretary that addresses the food safety of the animal;

''(2) the Secretary publishes the information in the Federal Register and provides a public comment period of not less than 60 days; and

''(3) based on the information provided under paragraph (1), any public comment, and other information available to the Secretary, the Secretary—

''(A) makes a determination that the animal is safe; and

''(B) publishes the determination in the Federal Register and on the Internet.''.

**SEC. 6. PROHIBITED ACTS.**

(a) UNLAWFUL USE OF TRADE SECRET INFORMATION.—Section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)) is amended in the first sentence—

(1) by inserting ''421,'' after ''414,''; and

(2) by inserting ''512A,'' after ''512,''.

(b) ADULTERATED FOOD.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

''(i) GENETICALLY ENGINEERED ANIMALS.—If it is a genetically engineered animal, or is a genetically engineered animal produced using a genetic engineering technique, that is not approved under sections 512 and 512A.

''(j) GENETICALLY ENGINEERED FOODS.—

''(1) IN GENERAL.—If it is a genetically engineered food, or is a genetically engineered food produced using a genetic engineering technique, that is not approved under section 421.

''(2) SPLIT USE FOODS.—If it is a split use food that does not maintain proper segregation as required under regulations promulgated under section 421.''.

**SEC. 7. TRANSITION PROVISION.**

(a) IN GENERAL.—A genetic engineering technique, genetically engineered animal, or genetically engineered food that entered interstate commerce before the date of enactment of this Act shall not require approval under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), but shall be considered to have been so approved, if—

(1) the producer, not later than 90 days after the date of enactment of this Act, submits to the Secretary—

(A) a notice stating that the genetic engineering technique, genetically engineered animal, or genetically engineered food entered interstate commerce before the date of enactment of this Act, providing such information as the Secretary may require; and

(B) a request that the Secretary conduct a review of the genetic engineering technique, genetically engineered animal, or genetically engineered food under subsection (b); and

(2) the Secretary does not issue, on or before the date that is 2 years after the date of enactment of this Act, a notice under subsection (b)(2) that an application for approval is required.

(b) REVIEW BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 months after the date on which the Secretary receives a notice and request for review under subsection (a), the Secretary shall review all relevant information in the possession of the Secretary, all information provided by the producer, and other relevant public information to determine whether a review of new scientific information is necessary to ensure that the genetic engineering technique, genetically engineered animal, or genetically engineered food is safe.

(2) NOTICE THAT APPLICATION IS REQUIRED.—If the Secretary determines that new scientific information is necessary to determine whether a genetic engineering technique, genetically engineered animal, or genetically engineered food is safe, the Secretary, not later than 2 years after the date of enactment of this Act, shall issue to the producer a notice stating that the producer is required to submit an application for approval of the genetic engineering technique, genetically engineered animal, or genetically engineered food under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) FAILURE TO SUBMIT APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a genetically engineered animal or genetically engineered food with respect to which the Secretary issues a notice that an application is required under subsection (b)(2) shall be considered adulterated under section 402 or 501, as the case may be, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 351) unless—

(A) not later than 45 days after the producer receives the notice, the producer submits an application for approval; and

(B) the Secretary approves the application.

(2) PENDING APPLICATION.—A genetically engineered animal or genetically engineered food with respect to which the producer submits an application for approval shall not be considered to be adulterated during the pendency of the application.

**SEC. 8. GENETICALLY ENGINEERED CROPS.**

To the maximum extent practicable, the Secretary of Agriculture shall ensure that standards for the regulation of genetically engineered field test crops to prevent cross-pollenation with non-genetically engineered crops and prevent adverse effects on the environment are based on the most recent scientific knowledge available.

**SEC. 9. REPORTS.**

(a) IN GENERAL.—Not later than 2 years, 4 years, and 6 years after the date of enactment of this Act, the Secretary and the heads of other Federal agencies, as appropriate, shall jointly submit to Congress a report on genetically engineered animals, genetically engineered foods, and genetic engineering techniques.

(b) CONTENTS.—A report under subsection (a) shall contain—

(1) information on the types and quantities of genetically engineered foods being offered for sale or being developed, domestically and internationally;

(2) a summary (including discussion of new developments and trends) of the legal status and acceptability of genetically engineered foods in major markets, including the European Union and Japan;

(3) information on current and emerging issues of concern relating to genetic engineering techniques, including issues relating to—

(A) the ecological impact of, antibiotic markers for, insect resistance to, nongerminating or terminator seeds for, or cross-species gene transfer for genetically engineered foods;

(B) foods from genetically engineered animals;

(C) nonfood crops (such as cotton) produced using a genetic engineering technique; and

(D) socioeconomic concerns (such as the impact of genetically engineered animals and genetically engineered foods on small farms);

(4) a response to, and information concerning the status of implementation of, the recommendations contained in the reports entitled ''Genetically Modified Pest Protected Plants'', ''Environmental Effects of Transgenic Plants'', ''Animal Biotechnology Identifying Science-Based Concerns'', and ''Biological Containment of Genetically Engineered Organisms (2004)'', issued by the National Academy of Sciences;

(5) an assessment of the need for data relating to genetically engineered animals and genetically engineered foods;

(6) a projection of—

(A) the number of genetically engineered animals, genetically engineered foods, and genetic engineering techniques that will require regulatory review during the 5-year period following the date of the report; and

(B) the adequacy of the resources of the Food and Drug Administration; and

(7) an evaluation of the national capacity to test foods for the presence of genetically engineered ingredients in food.

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act and the amendments made by this Act.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 382—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 382

*Resolved,* That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken of Members of the United States Senate on June 22, 2004.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.

### SENATE CONCURRENT RESOLUTION 119—RECOGNIZING THAT PREVENTION OF SUICIDE IS A COMPELLING NATIONAL PRIORITY

Mr. CAMPBELL (for himself, Mr. DODD, Mr. SMITH, Mr. REID, Mr. DAYTON, and Mr. DEWINE) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 119

Whereas suicide is one of the most disruptive and tragic events a family and a community can experience, and it occurs at a national rate of 30,000 suicides annually;

Whereas suicide is the fastest growing cause of death among youths and the second leading cause of death among college students;

Whereas suicide kills youths 6 to 9 times more often than homicide;

Whereas research shows that 95 percent of all suicides are preventable;

Whereas research shows that the prevention of suicide must be recognized as a national priority;

Whereas community awareness and education will encourage the development of strategies to prevent suicide;

Whereas during the 105th Congress, both the Senate and the House of Representatives unanimously agreed to resolutions recognizing suicide as a national problem and declaring suicide prevention programs to be a national priority (Senate Resolution 84, 105th Congress, agreed to May 6, 1997, and House of Representatives Resolution 212, 105th Congress, agreed to October 9, 1998);

Whereas the yellow ribbon is rapidly becoming recognized internationally as the symbol for the awareness and prevention of suicide, and it is recognized and used by suicide prevention groups, crisis centers, schools, churches, youth centers, hospitals, counselors, teachers, parents, and especially youth themselves; and

Whereas the week beginning September 19, 2004, should be recognized as Yellow Ribbon Suicide Awareness and Prevention Week: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) recognizes that the need to increase awareness about and prevent suicide is a compelling national priority;

(2) reaffirms the commitment of Congress to the priorities expressed by the 105th Congress, in Senate Resolution 84 and House Resolution 212, to continue to recognize suicide prevention as a national priority; and

(3) encourages Americans, communities, and the Nation to work to increase awareness about and prevent suicide.

Mr. CAMPBELL. Mr. President, today I am proud to be joined by 5 of my colleagues in submitting a resolution declaring the week of September 19, 2004, as Yellow Ribbon Suicide Awareness and Prevention Week dedicated to raising awareness about suicide and suicide prevention programs.

Suicide is a national tragedy that impacts the lives of millions of American families. According to the Centers for Disease Control and Prevention (CDC), suicide is the eleventh leading cause of all deaths in America, and the third such cause of death for young folks ages 10 to 24. And, unfortunately, Colorado has one of the highest suicide rates in the Nation.

Research shows that 95 percent of all suicides are preventable, and at the local, State, and Federal level, suicide prevention programs are becoming an important priority. On the Federal level, for example, the Department of Health and Human Services recently developed the National Strategy for Suicide Prevention.

One suicide prevention program, that has saved more than 2,500 lives is the Yellow Ribbon Suicide Prevention Program, founded in 1994 by Coloradans Dale and Dar Emme after their son, Mike, tragically took his own life. The program encourages youngsters, parents, and teachers to talk about suicide and emphasizes the use of a ''link'' card which young folks can carry with them and give to a friend, parent, or teacher if they are in need of assistance.

With local programs throughout the United States and programs in 47 countries, the Yellow Ribbon Suicide Prevention Program is used by crisis centers, schools, churches, and youth centers. And, the Yellow Ribbon Suicide Prevention Program has the endorsement of various State health departments and various State education departments and the American Osteopathic Association. And, the yellow ribbon has become the international symbol for suicide prevention and awareness.

I believe that community-based efforts and programs like the Yellow Ribbon Suicide Prevention Program, as well as attentive parents, teachers, and friends can make all the difference to someone who is desperate but does not know how to ask for help or where to turn.

Let's work together to make suicide prevention a national priority.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 3453. Mr. WARNER proposed an amendment to amendment SA 3354 proposed by Mr. REED to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

SA 3454. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3455. Mr. MCCONNELL (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3456. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3457. Mr. BURNS (for himself and Mr. ENSIGN) proposed an amendment to amendment SA 3235 proposed by Mr. BROWNBACK to the bill S. 2400, supra.

## TEXT OF AMENDMENTS

**SA 3453.** Mr. WARNER proposed an amendment to amendment SA 3354 proposed by Mr. REED to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

In the matter proposed to be inserted, strike subsections (a) and (b) and insert the following:

(a) TESTING CRITERIA.—Not later than February 1, 2005, the Secretary of Defense, in consultation with the Director of Operational Test and Evaluation, shall prescribe appropriate criteria for operationally realistic testing of fieldable prototypes developed under the ballistic missile defense spiral development program. The Secretary shall submit a copy of the prescribed criteria to the congressional defense committees.

(b) USE OF CRITERIA.—(1) The Secretary of Defense shall ensure that, not later than October 1, 2005, a test of the ballistic missile defense system is conducted consistent with the criteria prescribed under subsection (a).

(2) The Secretary of Defense shall ensure that each block configuration of the ballistic missile defense system is tested consistent with the criteria prescribed under subsection (a).

(c) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed to exempt any spiral development program of the Department of Defense, after completion of the spiral development, from the applicability of any provision of chapter 144 of title 10, United States Code, or section 139, 181, 2366, 2399, or 2400 of such title in accordance with the terms and conditions of such provision.

**SA 3454.** Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, between the matter following line 5 and line 6, insert the following:

**SEC. 621. RELATIONSHIP BETWEEN ELIGIBILITY TO RECEIVE SUPPLEMENTAL SUBSISTENCE ALLOWANCE AND ELIGIBILITY TO RECEIVE IMMINENT DANGER PAY, FAMILY SEPARATION ALLOWANCE, AND CERTAIN FEDERAL ASSISTANCE.**

(a) ENTITLEMENT NOT AFFECTED BY RECEIPT OF IMMINENT DANGER PAY AND FAMILY SEPARATION ALLOWANCE.—Subsection (b)(2) of section 402a of title 37, United States Code, is amended by striking subparagraph (A) and inserting the following:

''(A) shall not take into consideration—

''(i) the amount of the supplemental subsistence allowance that is payable under this section;

''(ii) the amount of special pay (if any) that is payable under section 310 of this section, relating to duty subject to hostile fire or imminent danger; or

''(iii) the amount of family separation allowance (if any) that is payable under section 427 of this title; but''.

(b) ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—Section 402a of such title is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection (g):

''(g) ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—(1)(A) A child or spouse of a member of the armed forces receiving the supplemental subsistence allowance under this section who, except for the receipt of such allowance, would otherwise be eligible to receive a benefit described in subparagraph (B) shall be considered to be eligible for that benefit.

''(B) The benefits referred to in subparagraph (A) are as follows:

''(i) Assistance provided under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

''(ii) Assistance provided under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

''(iii) A service under the Head Start Act (42 U.S.C. 9831 et seq.).

''(iv) Assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

''(2) A household that includes a member of the armed forces receiving the supplemental subsistence allowance under this section and, except for the receipt of such allowance, would otherwise be eligible to receive a benefit under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be eligible for that benefit.''.

(c) REQUIREMENT FOR REPORT.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the committees of Congress named in paragraph (2) a report on the accessibility of social services to members of the Armed Forces and their families. The report shall include the following matters:

(A) The social services for which members of the Armed Forces and their families are eligible under social services programs generally available to citizens and other nationals of the United States.

(B) The extent to which members of the Armed Forces and their families utilize the social services for which they are eligible under the programs identified under subparagraph (A).

(C) The efforts made by each of the military departments—

(i) to ensure that members of the Armed Forces and their families are aware of the social services for which they are eligible under the programs identified under subparagraph (A); and

(ii) to assist members and their families in applying for and obtaining such social services.

(2) The committees of Congress referred to in paragraph (1) are as follows:

(A) The Committee on Armed Services and the Committee on Health, Education, Labor, and Pensions of the Senate.

(B) The Committee on Armed Services of the House of Representatives.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on October 1, 2004.

(2) Subsection (c) shall take effect on the date of the enactment of this Act.

---

**SA 3455.** Mr. MCCONNELL (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 164, after line 18, insert the following:

**SEC. 816. SENSE OF THE SENATE ON EFFECTS OF COST INFLATION ON THE VALUE RANGE OF THE CONTRACTS TO WHICH A SMALL BUSINESS CONTRACT RESERVATION APPLIES.**

(a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) in the administration of the requirement for reservation of contracts for small businesses under subsection (j) of section 15 of the Small Business Act (15 U.S.C. 644), the maximum amount in the contract value range provided under that subsection should be treated as being adjusted to the same amount to which the simplified acquisition threshold is increased whenever such threshold is increased under law; and

(2) the Administrator of the Small Business Administration, in consultation with the Federal Acquisition Regulatory Council, should ensure that appropriate governmentwide policies and procedures are in place—

(A) to monitor socioeconomic data concerning purchases made by means of purchase cards or credit cards issued for use in transactions on behalf of the Federal Government; and

(B) to encourage the placement of a fair portion of such purchases with small businesses consistent with governmentwide goals for small business prime contracting established under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINED.—In this section, the term ''simplified acquisition threshold'' has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

---

**SA 3456.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 158, between lines 6 and 7, insert the following:

**SEC. 805. REVISION AND EXTENSION OF AUTHORITY FOR ADVISORY PANEL ON REVIEW OF GOVERNMENT PROCUREMENT LAWS AND REGULATIONS.**

(a) RELATIONSHIP OF RECOMMENDATIONS TO SMALL BUSINESSES.—Section 1423 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 106–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended—

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

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

''(d) ISSUES RELATING TO SMALL BUSINESSES.—In developing recommendations under subsection (c)(2), the panel shall—

''(1) consider the effects of its recommendations on small business concerns; and

''(2) include any recommended modifications of laws, regulations, and policies that the panel considers necessary to enhance and ensure competition in contracting that affords small business concerns meaningful opportunity to participate in Federal Government contracts.''.

(b) REVISION AND EXTENSION OF REPORTING REQUIREMENT.—Section 1423(d) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended—

(1) by striking ''one year after the establishment of the panel'' and inserting ''one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005'';

(2) by striking ''Services and'' both places it appears and inserting ''Services,'';

(3) by inserting '', and Small Business'' after ''Government Reform''; and

(4) by inserting '', and Small Business and Entrepreneurship'' after ''Governmental Affairs''.

---

**SA 3457.** Mr. BURNS (for himself and Mr. ENSIGN) proposed an amendment to amendment SA 3235 proposed by Mr. BROWNBACK to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of the amendment, add the following:

**SEC. ADDITIONAL FACTORS IN INDECENCY PENALTIES; EXCEPTION.**

Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)), as amended by section 102 of this Act, is further amended by adding at the end the following:

''(F) In the case of a violation in which the violator is determined by the Commission under paragraph (1) to have uttered obscene, indecent, or profane material, the Commission shall take into account, in addition to the matters described in subparagraph (E), the following factors with respect to the degree of culpability of the violator:

''(i) Whether the material uttered by the violator was live or recorded, scripted or unscripted.

''(ii) Whether the violator had a reasonable opportunity to review recorded or scripted programming or had a reasonable basis to believe live or unscripted programming would contain obscene, indecent, or profane material.

''(iii) If the violator originated live or unscripted programming, whether a time delay blocking mechanism was implemented for the programming.

''(iv) The size of the viewing or listening audience of the programming.

''(v) The size of the market.

''(vi) Whether the violation occurred during a children's television program (as such term is used in the Children's Television Programming Policy referenced in section 73.4050(c) of the Commission's regulations (47 C.F.R. 73.4050(c)) or during a television program rated TVY, TVY7, TVY7FV, or TVG under the TV Parental Guidelines as such ratings were approved by the Commission in implementation of section 551 of the Telecommunications Act of 1996, Video Programming Ratings, Report and Order, CS Docket No. 97–55, 13 F.C.C. Rcd. 8232 (1998)), and, with respect to a radio broadcast station licensee, permittee, or applicant, whether the target audience was primarily comprised of, or should reasonably have been expected to be primarily comprised of, children.

''(G) The Commission may double the amount of any forfeiture penalty (not to exceed $550,000 for the first violation, $750,000 for the second violation, and $1,000,000 for the third or any subsequent violation not to exceed up to $3,000,000 for all violations in a 24 hour time period notwithstanding section 503(b)(2)(C)) if the Commission determines additional factors are present which are aggravating in nature, including—

''(i) whether the material uttered by the violator was recorded or scripted;

''(ii) whether the violator had a reasonable opportunity to review recorded or scripted programming or had a reasonable basis to believe live or unscripted programming would contain obscene, indecent, or profane material;

''(iii) whether the violator failed to block live or unscripted programming;

''(iv) whether the size of the viewing or listening audience of the programming was substantially larger than usual, such as a national or international championship sporting event or awards program;

''(v) whether the obscene, indecent or profane language was within live programming not produced by the station licensee or permittee; and

''(vi) whether the violation occurred during a children's television program (as defined in subparagraph (F)(vi)).''.

---

## NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON FORESTRY, CONSERVATION, AND RURAL REVITALIZATION

Mr. COCHRAN. Mr. President, I announce that the Subcommittee on Forestry, Conservation and Rural Revitalization of the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on June 24, 2004 in SD–562 at 9:30 a.m. The purpose of this hearing will be to Review the Implementation of the Healthy Forest Restoration Act.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, June 24, 2004 at 2:30 p.m. in Room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 2543, to establish a program and criteria for National Heritage Areas in the United States, and for other purposes.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Sarah Creachbaum at (202) 224–6293.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 17, 2004, at 10 a.m. to conduct a hearing on ''An Overview of the Regulation of the Bond Markets.''

Concurrent with the hearing, the Committee intends to vote on the nomination of the Honorable Alan Greenspan to be Chairman of the Board of Governors of the Federal Reserve System; on S. 894, ''The Marine Corps 230th Anniversary Commemorative Coin Act''; and S. 976, ''The Jamestown 400th Anniversary Commemorative Coin Act of 2003.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on June 17, 2004, at 9:30 a.m. on Enhancing Border Security.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KYL. 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 Thursday, June 17, at 10 a.m. to receive testimony regarding the Environmental Management Program of the Department of Energy and Issues associated with accelerated cleanup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 17, 2004, at 9:30 a.m. to hold a hearing on Law Enforcement Treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 17, 2004, at 2 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 17, 2004, at 3 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 17, 2004, at 9:30 a.m. in Dirksen Senate Building Room 226.

Agenda

I. Nominations: Henry W. Saad, to be U.S. Circuit Judge for the Sixth Circuit; and Claude A. Allen to be U.S. Circuit Judge for the Fourth Circuit.

II. Legislation: S. 1735, Gang Prevention and Effective Deterrence Act of 2003 Hatch, Feinstein, Grassley, Graham, Chambliss, Cornyn, Schumer, Biden; S. 1635, L–1 Visa Intracompany Transferee, Reform Act of 2003 Chambliss; S. 2013, Satellite Home Viewer Extension Act of 2004 Hatch, Leahy, DeWine, Kohl; S.J. Res. 4, Proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States Act of 2003 Hatch, Feinstein, Craig, Sessions, DeWine, Grassley Graham, Cornyn, Specter, Chambliss; S. 1700, Advancing Justice through DNA Technology Act of 2003 Hatch, Biden, Specter, Leahy, DeWine, Feinstein, Kennedy, Schumer, Durbin and Kohl; S. Res. 322, A resolution designating August 16, 2004, as ''National Airborne Day'' of 2004 Hagel, Durbin, Graham, Hatch; S. Res. 370, A resolution designating September 7, 2004, as ''National Attention Deficit Disorder Awareness Day'' of 2004 Cantwell; and S. 2396, Federal Courts Improvement Act of 2004 Hatch, Leahy, Chambliss, Durbin, Schumer, Clinton

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Thursday, June 17, 2004, at 9 a.m., for a hearing entitled ''Buyer Beware: The Danger of Purchasing Pharmaceuticals Over the Internet.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. KYL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 17, 2004, at 2:30 p.m. to hold a closed hearing on Intelligence Matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. KYL. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space be authorized to meet on Thursday, June 17, 2004, at 2:30 p.m. on the Final Report on the President's Commission on Implementation of U.S. Space Exploration Policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. KYL. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, June 17, at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 2513, a bill to authorize the Secretary of the Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico rural water system, and for other purposes; S. 2511, a bill to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, NM, and for other purposes; S. 2508, a bill to redesignate the Ridges Basin Reservoir, CO, as Lake Nighthorse; S. 2460, a bill to provide assistance to the State of New Mexico for the development of comprehensive state water plans, and for other purposes; and S. 1211, a bill to further the purposes of Title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the ''Reclamation Wastewater and Groundwater Study and Facilities Act'', by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. HARKIN. I ask unanimous consent that Peter McElligott of my staff be granted floor privileges during today's debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. Mr. President, I ask unanimous consent that Colin Woodall, a member of Senator CORNYN's staff, be granted the privilege of the floor during the course of the debate on the Defense authorization bill, S. 2400.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I ask unanimous consent that Gabrielle Chapin and Dr. Harsh Trivedi, fellows in my office, be granted floor privileges during the debate on S. 2400.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Steve Beasley, a fellow with the Finance Committee, be granted the privileges of the floor during consideration of the Defense bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I ask unanimous consent that Brian Goodwin of my staff be granted floor privileges for the remainder of debate on this important issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. CLINTON. Mr. President, I ask unanimous consent that Paul Paolozzi, a fellow in my office, be granted the privilege of the floor for the remainder of the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AFRICAN GROWTH AND OPPORTUNITY ACT

Mr. FRIST. Mr. President, in a few moments, we will be closing for the evening after a very productive day, but before doing that, I wish to make a few comments on an issue that is very close to my heart, and it concerns the wonderful continent of Africa.

I have had the opportunity to work for periods of time in Africa as part of my former profession—medicine—and as part of medical mission work. Indeed, in the last year, I had the opportunity to travel to Africa, to the Sudan where I have really been able to capture what I love so much in delivering health care. I was in Kenya, Mozambique, Botswana, South Africa, and Namibia this past year. So, obviously, I am speaking about a continent that is close to me.

As I traveled through Africa, whether doing medical mission work or as a Senator on the part of official delegations, I have had the opportunity to observe the huge impact legislation that was passed in this Chamber now 4 years ago has had. It is called the African Growth and Opportunity Act, which is a critical trade measure that has benefited thousands and thousands of Africans and given them hope and an outlet for productive activity which paints a much brighter future. It is a trade measure that helps Africans, it helps the United States, and I believe strongly it helps all of humanity.

Congress passed the African Growth and Opportunity Act 4 years ago with strong bipartisan support in this body. It was signed into law by President Clinton. Since that time, it has created about 150,000 new jobs and maybe even more than that. President Museveni from Uganda was in my office 2 days ago, and he believes 150,000 is an underestimate; the real figure may be more like 250,000 or 300,000 jobs.

Investors, because of this act, have poured about $340 million in new private investment into Africa, and because of this investment in Africa, there have been new opportunities for U.S. businesses.

The African Growth and Opportunity Act—most people know it as AGOA—has given many countries in the continent—and not all have taken advantage of it, but many have—an opportunity to compete on a more level playing field with nations throughout the world, such as China.

The reason I come to the floor of the Senate tonight to take a few minutes is because these gains could be lost if this body does not act on what we call the AGOA Acceleration Act of 2004. This act has a lot of provisions. It has just been introduced in the Senate, but several provisions, if we do not act in this current bill, are set to expire in September of this year and, thus, that is why we need to act now, or act in the very near future. Hundreds of millions of dollars of investments in the continent of Africa are at stake, and hundreds of thousands of Africans, many of whom are living in the poorest parts of the world, could lose their jobs.

So I hope my colleagues—and I have had the opportunity to talk to a number of them over the course of today and yesterday—will work together collectively so we can move this very important bill forward. The bill has the strong support of this administration and the strong support of both sides of the aisle.

I spoke with the Democratic leader about the bill, and I know that he feels very strongly about it as well. It was approved by the House of Representatives last week by voice vote. I encourage my colleagues to both look at and support this important bill. It will make a huge difference in the lives of Africans. I hope we can address that bill in the near future.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar, Alan Greenspan, which was reported by the Banking Committee today. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

FEDERAL RESERVE SYSTEM

Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

Mr. REID. Mr. President, today the Senate has confirmed the nomination of Alan Greenspan to continue for yet another term as chairman of the Federal Reserve Board. While I did not force the Senate to take a rollcall vote on the matter, I do want to make it clear for the record that had such a vote been taken, I would have opposed Mr. Greenspan's confirmation.

I hold Chairman Greenspan in high regard as a dedicated public servant; however, I am concerned that the economic objectives that Mr. Greenspan aims to advance all too often come at the expense of Americans who are too young, too old, or too poor to belong to the investor class. During earlier years of his tenure, I worried that his slow-growth, high-interest manipulation of monetary policy hurt American workers. This year, my concerns about his decisions as Chairman grew to alarm. I was stunned to read that Mr. Greenspan supported the President's tax cuts for the wealthiest people and corporations among us, while at the same time predicting that growing Federal budget deficits and the retirement of baby boomers would require cuts in Social Security and Medicare. It was particularly shocking given his enthusiastic support for deficit reduction during the Clinton administration.

Our economy is becoming deeply and disturbingly stratefied, and it is eating away at our country. Our fiscal policy and the monetary policy that Chairman Greenspan has steered have created a gulf separating the haves and have-nots in America, a gulf so wide that it seems like even a lifetime of dedicated and hard work can no longer guarantee Americans a ticket into the middle class. I worry that if we do not try to correct our economic policy and return it to a fairer and more just course, we will not be holding true to our promise of affording opportunity to everyone.

I am pleased to see that at last the economy is beginning to show signs of growth and job creation. However, it is essential that we pay attention to whether that prosperity is shared by more than just a small handful of people occupying the top rungs of our economic ladder. We need to make sure that our economic prosperity doesn't come at the expense of elderly people depending on Social Security or young people trying to get a start in the job market. I believe that we need someone at the helm of the Federal Reserve who gives these matters the regard that they deserve.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## AUTHORIZING TAKING OF A PHOTOGRAPH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 382, submitted by Senators FRIST and DASCHLE earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 382) authorizing the taking of a photograph in the Chamber of the United States Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 382) was agreed to, as follows:

S. RES. 382

*Resolved,* That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken of Members of the United States Senate on June 22, 2004.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.

# *Daily Digest*

## HIGHLIGHTS

**The House passed H.R. 4568, Department of Interior and Related Agencies Appropriations Act for Fiscal Year 2005.**

# Senate

## *Chamber Action*

***Routine Proceedings, pages S6971–S7028***

**Measures Introduced:** Twelve bills and two resolutions were introduced, as follows: S. 2535–2546, S. Res. 382, and S. Con. Res. 119. **Page S6977**

**Measures Reported:** S. 2537, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005. (S. Rept. No. 108–280)

S. 2013, to amend section 119 of title 17, United States Code, to extend satellite home viewer provisions, with an amendment in the nature of a substitute. **Page S6997**

**Measures Passed:**

*Authorizing Senate Chamber Photograph:* Senate agreed to S. Res. 382, authorizing the taking of a photograph in the Chamber of the United States Senate. **Page S6977**

**National Defense Authorization Act:** Senate continued consideration of S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, taking action on the following amendments proposed thereto:

**Pages S6913–41, S6945, S6971–85**

Adopted:

Murray Modified Amendment No. 3427, to facilitate the availability of child care for the children of members of the Armed Forces on active duty in connection with Operation Enduring Freedom or Operation Iraqi Freedom. **Pages S691–185**

By 55 yeas to 44 nays (Vote No. 125), Warner Amendment No. 3453 (to Amendment No. 3354), to require the Secretary of Defense to prescribe and apply criteria for operationally realistic testing of fieldable prototypes developed under the ballistic missile defense spiral development program.

**Pages S6928–41**

Reed Amendment No. 3354, to require baselines for and testing of block configurations of the Ballistic Missile Defense System. **Pages S6928–41**

Warner Modified Amendment No. 3450 (to Amendment No. 3352), to provide for funding the increased number of Army active-duty personnel out of fiscal year 2005 supplemental funding.

**Pages S6913, S6946–51**

Sessions Amendment No. 3371, to provide for increased support of survivors of deceased members of the uniformed services. **Pages S6951–54**

By 93 yeas to 4 nays (Vote No. 129), Reed Amendment No. 3352, to increase the end strength for active duty personnel of the Army for fiscal year 2005 by 20,000 to 502,400. **Pages S6913, S6965–66**

Warner (for Alexander) Modified Amendment No. 3173, to provide for the supplemental subsistence allowance, imminent danger pay, family separation allowance, and certain federal assistance to be cumulative benefits; and to require a report on availability of social services to members of the Armed Forces.

**Pages S6971–72**

Levin (for Daschle) Amendment No. 3202, to provide relief for mobilized military reservists from certain Federal agricultural loan obligations. **Page S6972**

Warner (for Ensign) Modified Amendment No. 3440, to promote a thorough investigation of the United Nations Oil-for-Food Program. **Page S6972**

Levin (for Clinton/Talent) Modified Amendment No. 3163, to provide for improved medical readiness of the members of the Armed Forces.

**Pages S6972–75, S6979–80**

Warner (for Inhofe) Modified Amendment No. 3199, to authorize United Service Organizations, Incorporated (USO) to procure supplies and services from the General Services Administration supplies and services on the Federal Supply Schedule.

**Page S6975**

Levin (for Feinstein) Modified Amendment No. 3172, to express the sense of the Senate that perchlorate contamination of ground and surface water is becoming increasingly problematic to the public health of people in the United States. **Page S6975**

Warner (for Bond) Modified Amendment No. 3245, to require two reports on operation of the Federal Voting Assistance Program and the military postal system together with certain actions to improve the military postal system. **Page S6975**

Levin (for Leahy) Modified Amendment No. 3285, to amend title 32, United States Code, to provide for the use of members of the National Guard on full-time National Guard duty for carrying out homeland security activities in support of Federal agencies. **Pages S6975–76**

Warner (for Allard/Pryor) Amendment No. 3254, to repeal a requirement for an officer to retire upon termination of service as Superintendent of the Air Force Academy. **Page S6976**

Levin (for Akaka) Modified Amendment No. 3413, to amend the Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Pilot Program. **Page S6976**

Warner (for Snowe) Amendment No. 3246, to permit qualified HUBZone small business concerns and small business concerns owned and controlled by service-disabled veterans to participate in the mentor-protege program of the Department of Defense. **Page S6976**

Levin (for Bingaman) Modified Amendment No. 3390, to express the sense of Congress on the Global Partnership Against the Spread of Weapons of Mass Destruction. **Pages S6976–77**

Warner (for Snowe) Modified Amendment No. 3273, to revise and extend the authority for an advisory panel on review of Government procurement laws and regulations. **Page S6977**

Levin (for Bingaman) Modified Amendment No. 3284, to require an independent report on the efforts of the National Nuclear Security Administration to understand the aging of plutonium in nuclear weapons. **Page S6977**

Warner (for McConnell/Snowe) Modified Amendment No. 3434, to express the sense of the Senate on the effects of cost inflation on the value range of the contracts to which a small business contract reservation applies. **Page S6977**

Levin (for Dodd/DeWine) Amendment No. 3401, to amend the Federal Fire Prevention and Control Act of 1974 to provide financial assistance for the improvement of the health and safety of firefighters, promote the use of life saving technologies, and achieve greater equity for departments serving large jurisdictions. **Pages S6977, S6978–79**

Warner (for Campbell) Modified Amendment No. 3237, to ensure fairness in the standards applied to members of the Army in the awarding of the Combat Infantryman Badge and the Combat Medical Badge for service in Korea in comparison to the standards applied to members of the Army in the awarding of such badges for service in other areas of operations. **Page S6977**

Levin (for Nelson (FL)) Modified Amendment No. 3279, to require a report on any relationships between terrorist organizations based in Colombia and foreign governments and organizations. **Pages S6977–78**

Rejected:

By 42 yeas to 57 nays (Vote No. 124), Boxer Amendment No. 3368, to allow deployment of the ground-based midcourse defense element of the national ballistic missile defense system only after the mission-related capabilities of the system have been confirmed by operationally realistic testing. **Pages S6918–28**

By 44 yeas to 53 nays (Vote No. 130), Biden Amendment No. 3379, to provide funds for the security and stabilization of Iraq by suspending a portion of the reduction in the highest income tax rate for individual taxpayers. **Pages S6954–65, S6966**

Pending:

Bond Modified Amendment No. 3384, to include certain former nuclear weapons program workers in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program and to provide for the disposal of certain excess Department of Defense stocks for funds for that purpose. **Pages S6913, S6966**

Brownback Amendment No. 3235, to increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language. **Pages S6980–81**

Burns Amendment No. 3457 (to Amendment No. 3235), to provide for additional factors in indecency penalties issued by the Federal Communications Commission. **Pages S6981–84**

During consideration of this measure today, Senate also took the following action:

The pending motion to invoke cloture on the bill was vitiated. **Page S6985**

A unanimous-consent agreement was reached providing for further consideration of the bill at 9:30 a.m, on Friday, June 18, 2004. **Page S6968**

**Nominations Confirmed:** Senate confirmed the following nominations:

By unanimous vote of 99 yeas (Vote No. Ex. 126), James L. Robart, of Washington, to be United States District Judge for the Western District of Washington. **Pages S6941–42, S6969**

By 98 yeas 1 nay (Vote No. Ex. 127), Roger T. Benitez, of California, to be United States District Judge for the Southern District of California.

**Pages S6942–44, S6969**

By unanimous vote of 99 yeas (Vote No. Ex. 128), Jane J. Boyle, of Texas, to be United States District Judge for the Northern District of Texas.

**Pages S6944–45, S6969**

Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System for a term of four years. (Reappointment)

**Page S6969**

**Nominations Received:** Senate received the following nominations:

Albert A. Frink, Jr., of California, to be an Assistant Secretary of Commerce.

John Ripin Miller, of Washington, to be Director of the Office to Monitor and Combat Trafficking, with the rank of Ambassador at Large. (New Position)

Robert Allen Pittman, of Florida, to be an Assistant Secretary of Veterans Affairs (Human Resources and Administration).

Routine lists in the Army. **Page S6969**

**Messages From the House:** **Page S6995**

**Measures Referred:** **Page S6995**

**Executive Communications:** **Pages S6995–97**

**Executive Reports of Committees:** **Page S6997**

**Additional Cosponsors:** **Pages S6997–S7000**

**Statements on Introduced Bills/Resolutions:** **Pages S7000–24**

**Additional Statements:** **Pages S6994–95**

**Amendments Submitted:** **Pages S7024–25**

**Notices of Hearings/Meetings:** **Page S7025**

**Authority for Committees to Meet:** **Page S7026**

**Privilege of the Floor:** **Pages S7026–27**

**Record Votes:** Seven record votes were taken today. (Total—130) **Pages S6928, S6941, S6942, S6944, S6945, S6965–66, S6966**

**Adjournment:** Senate convened at 9:30 a.m., and adjourned at 9:24 p.m., until 9:30 a.m., on Friday, June 18, 2004. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S6968.)

# *Committee Meetings*

*(Committees not listed did not meet)*

## APPROPRIATIONS: HOMELAND SECURITY

*Committee on Appropriations:* Committee ordered favorably reported an original bill (S. 2537) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005.

## BOND MARKETS REGULATION

*Committee on Banking, Housing, and Urban Affairs:* Committee concluded a hearing to examine the regulation of the bond markets, focusing on fixed-income market transparency, Trade Reporting and Compliance Engine (TRACE) enabling investors to access current price information for U.S. corporate bonds, and State, local, and Internal Revenue Service regulation of municipal issuers, after receiving testimony from Annette L. Nazareth, Director, Division of Market Regulation, U.S. Securities and Exchange Commission; Doug Shulman, National Association of Securities Dealers, New York, New York; Christopher A. Taylor, Municipal Securities Rulemaking Board, Alexandria, Virginia; Micah S. Green, Bond Market Association, Washington, D.C.; Christopher M. Ryon, Vanguard Group, Valley Forge, Pennsylvania; Arthur Warga, University of Houston C.T. Bauer College of Business, Houston, Texas.

## BUSINESS MEETING

*Committee on Banking, Housing, and Urban Affairs:* Committee ordered favorably reported the following business items:

S. 894, to require the Secretary of the Treasury to mint coins in commemoration of the 230th Anniversary of the United States Marine Corps, and to support construction of the Marine Corps Heritage Center;

S. 976, to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement; and

The nomination of Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System.

## BORDER SECURITY

*Committee on Commerce, Science, and Transportation:* Committee concluded a hearing to examine federal efforts to enhance border security, focusing on technological advancements and national border control and cross-agency law enforcement initiatives, after receiving testimony from Senator Kyl; Representative Kolbe; Asa Hutchinson, Under Secretary for Border and Transportation Security, Charles E. McQueary, Under Secretary for Science and Technology, and Mary Delaquis, Port Director, Customs and Border Protection, all of the Department of Homeland Security; Roger Di Rosa, Refuge Manager, Cabeza Prieta National Wildlife Refuge, U.S. Fish and Wildlife Service, Department of the Interior; George Happ, Alaska EPSCoR, University of Alaska-Fairbanks; and Ned Norris, Jr., Tohono O'Odham Nation, Sells, Arizona.

## U.S. SPACE EXPLORATION POLICY

*Committee on Commerce, Science, and Transportation:* Committee concluded a hearing to examine the final report of the President's Commission on Implementation of United States Space Exploration Policy, focusing on a transformation of NASA, building an international space industry, a discovery-based science agenda, and educational initiatives to support youth and teachers inspired by space exploration, after receiving testimony from Edward C. Aldridge, Jr., Chairman, President's Commission on Implementation of United States Space Exploration Policy; Paul D. Spudis, Johns Hopkins University Applied Physics Laboratory, Laurel, Maryland; Marie T. Zuber, Massachusetts Institute of Technology Department of Earth Atmospheric and Planetary Sciences, Cambridge; Laurie A. Leshin, Arizona State University College of Liberal Arts and Sciences, Tempe; and Lester L. Lyles, Columbus, Ohio.

## ENVIRONMENTAL MANAGEMENT PROGRAM

*Committee on Energy and Natural Resources:* Committee concluded a hearing to examine the Environmental Management Program of the Department of Energy and issues associated with accelerated cleanup, focusing on concerns over activities at the Hanford Site involving occupational medical services and potential exposures to tank farm vapors, development of risk-based end states, and waste incidental to reprocessing, after receiving testimony from Jessie H. Roberson, Assistant Secretary for Environmental Management, Glenn S. Podonsky, Director, Office of Security and Safety Performance Assurance, and Gregory H. Friedman, Inspector General, all of the Department of Energy.

## WATER MANAGEMENT

*Committee on Energy and Natural Resources:* Subcommittee on Water and Power concluded a hearing to examine S. 1211, to further the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the ''Reclamation Wastewater and Groundwater Study and Facilities Act'', by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico; S. 2460, to provide assistance to the State of New Mexico for the development of comprehensive State water plans; S. 2508, to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse; S. 2511, to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico; and S. 2513, to authorize the Secretary of the Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico Rural Water System, after receiving testimony from John W. Keys III, Commissioner, Bureau of Reclamation, Department of the Interior; Mayor David M. Lansford, Clovis, New Mexico; and John R. D'Antonio, Jr., New Mexico State Engineer, Santa Fe.

## LAW ENFORCEMENT TREATIES

*Committee on Foreign Relations:* Committee concluded a hearing to examine Council of Europe Convention on Cybercrime (the ''Cybercrime Convention'' or the ''Convention''), which was signed by the United States on November 23, 2001 (Treaty Doc. 108–11), United Nations Convention Against Transnational Organized Crime (the ''Convention''), as well as two supplementary protocols: (1) the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and (2) the Protocol Against Smuggling of Migrants by Land, Sea and Air, which were adopted by the United Nations General Assembly on November 15, 2000. The Convention and Protocols were signed by the United States on December 13, 2000, at Palermo, Italy (Treaty Doc. 108–16), Inter-American Convention Against Terrorism (''Convention'') adopted at the Thirty-second Regular Session of the General Assembly of the Organization of American States (''OAS'') Meeting in Bridgetown, Barbados, and signed by thirty countries, including the United States, on June 3, 2002 (Treaty Doc. 107–18), and Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures done at Brussels on June 26, 1999 (Treaty Doc. 108–6), after receiving testimony from Michael T. Schmitz, Acting Assistant Commissioner for International Affairs, U.S. Customs and Border Protection, Department of Homeland Security; Bruce Swartz, Deputy Assistant Attorney General, Criminal Division, Department of Justice; and Samuel M. Witten, Deputy Legal Adviser, Department of State.

## INTERNET PHARMACIES

*Committee on Governmental Affairs:* Permanent Subcommittee on Investigations held a hearing to examine the danger of purchasing pharmaceuticals over the Internet, focusing on the extent to which consumers can purchase pharmaceuticals over the Internet without a medical prescription, the importation of pharmaceuticals into the United States, and whether pharmaceuticals from foreign services are counterfeit, expired, unsafe, or illegitimate, receiving testimony from Marcia Crosse, Director, Health Care—Public Health and Military Healthcare Issues, and Robert J. Cramer, Managing Director, Office of

Special Investigations, both of the General Accounting Office; Rudolph W. Giuliani, Giuliani Partners, LLC, New York, New York; Marvin D. Shepherd, University of Texas at Austin College of Pharmacy; Francine H. Haight, Orange County, California; and Elizabeth Carr, Sacramento, California.

Hearings continue on Thursday, June 24.

**BUSINESS MEETING**

*Committee on the Judiciary:* Committee ordered favorably reported the following business items:

S. 2013, to amend section 119 of title 17, United States Code, to extend satellite home viewer provisions, with an amendment in the nature of a substitute; and

The nomination of Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Also, committee failed to approve the issuance of a subpoena to Attorney General John Ashcroft to obtain certain documents.

**BUSINESS MEETING**

*Select Committee on Intelligence:* Committee met in closed session to consider pending intelligence matters.

Committee recessed subject to the call.

# House of Representatives

## *Chamber Action*

**Measures Introduced:** 9 public bills, H.R. 4603–4611; and 4 resolutions, H. Con. Res. 453–456, were introduced. **Pages H4506–07**

**Additional Cosponsors:** **Page H4507**

**Reports Filed:** Reports were filed today as follows:

H.R. 4471, to clarify the loan guarantee authority under title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (H. Rept. 108–550);

H.R. 3797, to authorize improvements in the operations of the government of the District of Columbia (H. Rept. 108–551, Pt. 1); and

H.R. 3751, to require that the Office of Personnel Management study and present options under which dental and vision benefits could be made available to Federal employees and retirees and other appropriate classes of individuals, amended (H. Rept. 108–552). **Page H4506**

**Chaplain:** The prayer was offered today by Rev. Greg Surratt, Pastor, Seacoast Christian Community Church in Mount Pleasant, South Carolina. **Page H4291**

**Journal:** Agreed to the Speaker's approval of the Journal of Wednesday, June 16 by a recorded vote of 342 ayes to 67 noes, with one voting "present", Roll No. 260. **Pages H4291, H4433–34**

**American Jobs Creation Act of 2004:** The House passed H.R. 4520, 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, by a recorded vote of 251 ayes to 178 noes, Roll No. 259. **Pages H4305–H4433**

Agreed to the amendment in the nature of a substitute recommended by the Committee on Ways and Means, as modified by the amendment printed in H. Rept. 108–549. **Page H4433**

Rejected the Rangel motion to recommit the bill to the Committee on Ways and Means with instructions to report the same back to the House forthwith with amendments by a yea-and-nay vote of 193 yeas to 235 nays, Roll No. 258. **Pages H4432–33**

H. Res. 681, the rule providing for consideration of the bill was agreed to by a recorded vote of 230 ayes to 195 noes, Roll No. 257, after agreeing to order the previous question by a yea-and-nay vote of 233 yeas to 193 nays, Roll No. 256. **Pages H4295–S4305**

**Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 2005:** The House passed H.R. 4568, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2005, by a yea-and-nay vote of 334 yeas to 86 nays, Roll No. 264. The bill was also considered on Wednesday, June 16. **Pages H4435–65**

Agreed to:

Dicks amendment requiring that the Secretary of the Interior submit a report 30 days after the enactment of this act with a date certain of when and whether the public will have full access to the Statue of Liberty, including all areas that were closed after 9/11. **Page H4458**

Rejected:

Hinchey amendment (no. 18, printed in the Congressional Record of June 16) that sought to prohibit the use of funds to kill or assist in the killing of bison in the Yellowstone National Park herd (by a recorded vote of 202 ayes to 215 noes, Roll No. 261); **Pages H4435, H4460–61**

Sanders amendment (modified by unanimous consent) that sought to prohibit the use of funds to maintain more than 647 million barrels of crude oil in the Strategic Petroleum Reserve (by a recorded vote of 152 ayes to 267 noes, Roll No. 262); and **Pages H4440–41, H4461**

Holt amendment (no. 4, printed in the Congressional Record of June 15) that sought to prohibit the use of funds to permit recreational snowmobile use in Yellowstone National Park, Grand Teton National Park and the John D. Rockfeller, Jr., Memorial Parkway (by a recorded vote of 198 ayes to 224 noes, Roll No. 263). **Pages H4446, H4461–62**

Withdrawn:

Jackson-Lee of Texas amendment that was offered and subsequently withdrawn that sought to prohibit the use of funds to eliminate or restrict programs that are for the reforestation of urban areas; and **Pages H4458–59**

Jackson-Lee of Texas amendment that was offered and subsequently withdrawn that sought to prohibit the use of funds appropriated in title I of the bill for construction of the Gregory Lincoln Education Center in Houston, Texas. **Page H4459**

Point of Order sustained against:

Weiner amendment that would have directed the Secretary of the Interior to provide public access to the Statue of Liberty and its interior substantially equivalent to the access provided before September 11, 2001, not later than July 31, 2004. **Pages H4457–58**

H. Res. 674, the rule providing for consideration of the bill was agreed on Wednesday, June 16.

**Department of Homeland Security Appropriations Act for Fiscal Year 2005—Rule:** The House began consideration of H.R. 4567, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005. Further consideration will resume tomorrow, June 18. **Pages H4465–H4504**

Agreed to:

Weldon of Pennsylvania amendment (no. 12, printed in the Congressional Record of June 16) that increases funding for the Staffing for Adequate Fire and Emergency Response Firefighters Program; and **Pages H4478–80**

Turner amendment (agreed) that increases funding for customs and border protection. **Page H4480**

Rejected:

Simmons amendment (no. 11, printed in the Congressional Record of June 15) that sought to increase funding for the Coast Guard acquisition, construction, and improvements program; **Pages H4487–88**

DeFazio amendment (no. 17, printed in the Congressional Record of June 16) that sought to strike a provision in title II of the bill relating to the maximum staffing level for full-time equivalent aviation screeners (by a recorded vote of 180 ayes to 228 noes, Roll No. 265); and **Pages H4483–87, H4503**

Sweeney amendment (no. 3, printed in the Congressional Record of June 15) that sought to increase High Threat grants for Urban Areas Security Initiative (by a recorded vote of 171 ayes to 237 noes, Roll No. 266); **Pages H4489–90, H4503–04**

Withdrawn:

Stupak amendment that was offered and subsequently withdrawn that would have increased funding for the Office of State and Local Government Coordination and Preparedness. **Pages H4480–83**

Point of Order sustained against:

Section of the bill on page 14, lines 9–19, concerning the Federal Government's share of costs for aviation security at airports; and **Page H4483**

Language on page 22, lines 22 and 23 of the bill that states ''not withstanding any other provision of law''; **Page H4489**

Sweeney amendment (no. 16, printed in the Congressional Record of June 16) that would have required that any grants to states under the formula-based grant program in excess of any statutorily required minimum amount be distributed based on an assessment of the risk of terrorist threats, vulnerabilities and consequences. **Page H4489**

H. Res. 675, the rule providing for consideration of the bill was agreed to on Wednesday, June 16. **Page H4465**

**Amendments:** Amendments ordered printed pursuant to the rule appear on page H4392.

**Quorum Calls—Votes:** Three yea-and-nay votes and eight recorded votes developed during the proceedings of today and appear on pages H4304–05, H4305, H4432–33, H4433, H4434, H4460–61, H4461, H4461–62, H4464–65, H4503 and H4503–04 . There were no quorum calls.

**Adjournment:** The House met at 10 a.m. and adjourned at 12:33 a.m. on Friday, June 18.

# *Committee Meetings*

## IRAQI SECURITY FORCES

*Committee on Armed Services:* Held a hearing on training of Iraqi security forces. Testimony was heard

from LTG David H. Petraeus, USA, Chief, Office of Security Transition—Iraq. Department of Defense.

**U.S. DEFENSE INDUSTRIAL BASE—IMPACT OF DEFENSE TRADE OFFSETS**

*Committee on Armed Services:* Held a hearing on the impact of defense trade offsets on the U.S. defense industrial base. Testimony was heard from public witnesses.

**SAFEGUARD AGAINST PRIVACY INVASIONS ACT**

*Committee on Energy and Commerce:* Subcommittee on Commerce, Trade, and Consumer Protection approved for full Committee action, as amended, H.R. 2929, Safeguard Against Privacy Invasions Act.

**E-RATE PROGRAM PROBLEMS**

*Committee on Energy and Commerce:* Subcommittee on Oversight and Investigations held a hearing entitled "Problems with the E-rate Program: Waste, Fraud, and Abuse Concerns in the Wiring of Our Nation's Schools to the Internet." Testimony was heard from the following officials of the FCC: H. Walker Feaster III, Inspector General; Carol E. Mattey, Deputy Chief, Wireline Competition Bureau; and Jane E. Mago, Chief, Office of Strategic Planning and Policy Analysis; the following officials of the Commonwealth of Puerto: Manuel Diaz Saldana, Comptroller; and Cesar A. Rey Hernandez, Secretary, Department of Education

**U.S.-EU REGULATORY DIALOGUE**

*Committee on Financial Services:* Subcommittee on Domestic and International Monetary Policy, Trade, and Technology held a hearing entitled, "The U.S.-EU Regulatory Dialogue: The Private Sector Perspective." Testimony was heard from public witnesses.

**WAR AGAINST DRUGS AND THUGS**

*Committee on Government Reform:* Held a hearing entitled "The War Against Drugs and Thugs: A Status Report on Plan Colombia Successes and Remaining Challenges." Testimony was heard from John P. Walters, Director, Office of National Drug Control Policy; the following officials of the Department of State: Roger F. Noriega, Assistant Secretary, Western Hemisphere Affairs; and Robert B. Charles, Assistant Secretary, International Narcotics and Law Enforcement Affairs; the following officials of the Department of Defense: Thomas W. O'Connell, Assistant Secretary, Special Operations and Low-Intensity Conflict; and GEN James T. Hill, USA, Commander, U.S. Southern Command; Karen P. Tandy, Administrator, DEA, Department of Justice; Luis Alberto Moreno, Ambassador to the United States, Republic of Colombia; and public witnesses.

**OVERSIGHT—ELECTION ASSISTANCE COMMISSION—HELP AMERICAN VOTE ACT IMPLEMENTATION**

*Committee on House Administration:* Held an oversight hearing on the Election Assistance Commission and Implementation of the Help America Vote Act. Testimony was heard from the following officials of the Election Assistance Commission: DeForest B. Soaries, Jr., Chairman; Gracia Hillman, Vice Chair; Paul DeGregorio and Ray Martinez, both Commissioners.

**MISCELLANEOUS RESOLUTIONS; EGYPT-U.S. ECONOMIC ASSISTANCE**

*Committee on International Relations:* Favorably considered and adopted a motion urging the Chairman to request that the following measures be considered on the Suspension Calendar: H. Res. 642, amended, House Commission for Assisting Democratic Parliaments Resolution; and H. Con. Res. 410, Recognizing the 25th anniversary of the adoption of the Constitution of the Republic of the Marshall Islands and recognizing the Marshall Islands as a staunch ally of the United States, committed to principles of democracy and freedom for the Pacific region and throughout the world.

The Committee also held a hearing on "United States Economic Assistance to Egypt: Does It Advance Reform?" Testimony was heard from David B. Gootnick, Director, International Affairs and Trade, GAO; and public witnesses.

**MISCELLANEOUS MEASURES**

*Committee on International Relations:* Subcommittee on Europe approved for full Committee action the following measures: H. Con. Res. 415, Urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the presidential election on October 31, 2004; and H. Res. 652, Urging the Government of the Republic of Belarus to ensure a democratic, transparent, and fair election process for its parliamentary elections in the fall of 2004.

**FAMILY MOVIE ACT**

*Committee on the Judiciary:* Subcommittee on Courts, the Internet, and Intellectual Property held a hearing H.R. 4586, Family Movie Act of 2004. Testimony was heard from Marybeth Peters, Register of Copyrights, Library of Congress; and public witnesses.

**OVERSIGHT—DETRIMENTAL IMPACT OF IMMIGRATION BACKLOG**

*Committee on the Judiciary:* Subcommittee on Immigration, Border Security, and Claims held an oversight hearing entitled ''Families and Businesses in Limbo: The Detrimental Impact of the Immigration Backlog.'' Testimony was heard from Eduardo Aguirre, Director, Bureau of Citizenship and Immigration Services, Department of Homeland Security.

**MISCELLANEOUS MEASURES**

*Committee on Resources:* Subcommittee on Forests and Forest Health held a hearing on the following bills: H.R. 3102, To utilize the expertise of New Mexico State University, the University of Arizona, and Northern Arizona University in conducting studies under the National Environmental Policy Act of 1969 in connection with grazing allotments and range and continuing range analysis for National Forest System lands in New Mexico and Arizona; H.R. 3427, Craig Recreation Land Purchase Act; H.R. 4494, Grey Towers National Historic Site Act of 2004; and S. 2003, To clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River. Testimony was heard from Representative Sherwood; Mark Rey, Under Secretary, Natural Resources and Environment, USDA; and public witnesses.

**EXAMINE RULE X—ORGANIZATION OF COMMITTEES**

*Committee on Rules:* Subcommittee on Technology and the House concluded hearings to examine Rule X, the Organization of Committees, including its current legislative impact, arrangement, and effectiveness. Testimony was heard from Representatives Goss, Sensenbrenner, Goodlatte, Stenholm, Barton of Texas, Dingell, Manzullo, Young of Alaska and Oberstar.

**DEPARTMENT OF LABOR'S ENFORCEMENT AGAINST SMALL BUSINESSES**

*Committee on Small Business:* Subcommittee on Regulatory Reform and Oversight held a hearing on Department of Labor's Enforcement Against Small Businesses. Testimony was heard from Robert Varnell, Deputy Solicitor, Department of Labor; and public witnesses.

**DVA—EFFORTS TO ELIMINATE FRAUD, WASTE, ABUSE AND MISMANAGEMENT IN PROGRAMS**

*Committee on Veterans' Affairs:* Held a hearing on efforts to identify and eliminate fraud, waste, abuse and mismanagement in programs administered by the Department of Veterans Affairs. Testimony was heard from the following officials of the Department of Veterans Affairs: Gordon H. Mansfield, Deputy Secretary; and Richard J. Griffin, Inspector General; McCoy Williams, Director, Financial Management and Assurance Team, GAO.

**HEALTH CARE INFORMATION TECHNOLOGY**

*Committee on Ways and Means:* Subcommittee on Health held a hearing on Health Care Information Technology. Testimony was heard from David Brailer, M.D., National Health Information Technology Coordinator, Department of Health and Human Services; Robert M. Kolodner, M.D., Acting Chief Health Informatics Officer and Deputy Chief Information Officer for Health, Department of Veterans Affairs; and public witnesses.

**FAILURE TO PROTECT CHILD SAFETY**

*Committee on Ways and Means:* Subcommittee on Human Resources held a hearing on Failure to Protect Child Safety. Testimony was heard from Christopher J. McCabe, Secretary, Department of Human Resources, State of Maryland; the following officials of the City of Baltimore: Floyd Blair, Interim Director, Department of Social Services; and Peter Beilenson, M.D., Commissioner of Health; and a public witness.

**CUSTOMS BUDGET AUTHORIZATIONS AND OTHER CUSTOMS ISSUES**

*Committee on Ways and Means:* Subcommittee on Trade held a hearing on Customs Budget Authorizations and Other Customs Issues. Testimony was heard from the following officials of the Department of Homeland Security: Robert C. Bonner, Commissioner, U.S. Customs and Border Protection; and Michael J. Garcia, Assistant Secretary, U.S. Immigration and Customs Enforcement; and public witnesses.

**BRIEFING—COUNTERNARCOTICS: AFGHANISTAN**

*Permanent Select Committee on Intelligence:* Subcommittee on Human Intelligence, Analysis, and Counterintelligence met in executive session to receive a briefing on Counternarcotics: Afghanistan. The Subcommittee was briefed by departmental witnesses.

**BRIEFING—GLOBAL INTELLIGENCE UPDATE**

*Permanent Select Committee on Intelligence:* Subcommittee on Intelligence Policy and National Security met in executive session to receive a briefing on Global Intelligence Update. The Subcommittee was briefed by departmental witnesses.

## COMMITTEE MEETINGS FOR FRIDAY, JUNE 18, 2004

*(Committee meetings are open unless otherwise indicated)*

### Senate

No meetings/hearings scheduled.

### House

No committee meetings are scheduled.

*Next Meeting of the* **SENATE**

**9:30 a.m., Friday, June 18**

**Senate Chamber**

**Program for Friday:** Senate will continue consideration of S. 2400, National Defense Authorization Act.

*Next Meeting of the* **HOUSE OF REPRESENTATIVES**

**9 a.m., Friday, June 18**

**House Chamber**

**Program for Friday:** Continue consideration of H.R. 4567, Department of Homeland Security Appropriations Act for Fiscal Year 2005 (open rule).

Congressional Record

The *Congressional Record* (USPS 087–390). The Periodicals postage is paid at Washington, D.C. The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed one time. ¶Public access to the *Congressional Record* is available online through *GPO Access*, a service of the Government Printing Office, free of charge to the user. The online database is updated each day the *Congressional Record* is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available through *GPO Access* at www.gpo.gov/gpoaccess. Customers can also access this information with WAIS client software, via telnet at swais.access.gpo.gov, or dial-in using communications software and a modem at 202–512–1661. Questions or comments regarding this database or *GPO Access* can be directed to the *GPO Access* User Support Team at: E-Mail: gpoaccess@gpo.gov; Phone 1–888–293–6498 (toll-free), 202–512–1530 (D.C. area); Fax: 202–512–1262. The Team's hours of availability are Monday through Friday, 7:00 a.m. to 5:30 p.m., Eastern Standard Time, except Federal holidays. ¶The *Congressional Record* paper and 24x microfiche edition will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, $252.00 for six months, $503.00 per year, or purchased as follows: less than 200 pages, $10.50; between 200 and 400 pages, $21.00; greater than 400 pages, $31.50, payable in advance; microfiche edition, $146.00 per year, or purchased for $3.00 per issue payable in advance. The semimonthly *Congressional Record Index* may be purchased for the same per issue prices. To place an order for any of these products, visit the U.S. Government Online Bookstore at: bookstore.gpo.gov. Mail orders to: Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, or phone orders to 866–512–1800 (toll free), 202–512–1800 (D.C. area), or fax to 202–512–2250. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, American Express, or GPO Deposit Account. ¶Following each session of Congress, the daily *Congressional Record* is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the *Congressional Record*.

**POSTMASTER:** Send address changes to the Superintendent of Documents, *Congressional Record*, U.S. Government Printing Office, Washington, D.C. 20402, along with the entire mailing label from the last issue received.