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# *House of Representatives*

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

## DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
*July 14, 2004.*

I hereby appoint the Honorable JEFF MILLER to act as Speaker pro tempore on this day.

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

## PRAYER

The Reverend Danny Cochran, Pastor, Holly Creek Baptist Church, Chatsworth, Georgia, offered the following prayer:

Heavenly Father, since the beginning of our Nation its leaders and people have called upon You seeking guidance, protection and blessings. You have heard those prayers and blessed this great Nation in ways that defy description. The Psalmist wrote, ''Blessed is the nation whose God is the Lord.'' This Nation has truly experienced the reality of those words. We humbly thank You for the freedom and many other blessings that we enjoy.

Today, we turn to You again. The ladies and gentlemen of this House of Representatives will make decisions that will affect multitudes of people for many years to come. We pray that You will give them insight and wisdom as they deliberate these important issues. Help them to choose what is right and good.

We pray Your continued blessings upon this Nation, its people, President, and those who protect her freedom. Amen.

## THE JOURNAL

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

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

## PLEDGE OF ALLEGIANCE

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

Mr. GINGREY led the Pledge of Allegiance as follows:

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

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Secretary requests the return to the Senate of (H.R. 1303) entitled ''An Act to amend E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference.'', in compliance with a request of the Senate for the return thereof.

## THE REVEREND DANNY COCHRAN

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

Mr. GINGREY. Mr. Speaker, I rise today on behalf of my colleague, the gentleman from Georgia (Mr. DEAL). He has asked me, in his absence, to extend a warm welcome to Reverend Danny Cochran. It is a pleasure to have him join us today as our guest chaplain.

Reverend Cochran has served the people of the 10th District of Georgia for nearly 20 years. He is currently the Pastor of Holly Creek Baptist Church in Chatsworth, Georgia. Reverend Cochran received undergraduate degrees from Liberty University and Luther Rice Seminary and a Master of Arts and Religion from Liberty Baptist Theological Seminary. He is currently pursuing a Doctorate of Ministry.

While he has continually served those in his community through programs such as Big Brothers of America and the ''Economics of Staying in School,'' Reverend Cochran has extended his ministry beyond our country's borders. He has traveled to the Caribbean Islands, to Russia, to Romania and Honduras to bring aid to the people of these countries.

It is an honor to have him offer this morning's prayer. Reverend Cochran, we appreciate your service not only to the citizens of the 10th District of Georgia but to all Georgians, including those I represent in the 11th Congressional District. On behalf of my colleagues here in the United States House of Representatives, I thank you for your Ministry to us here today.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now entertain ten 1-minutes per side.

## PRESIDENT BUSH PROTECTING AMERICAN FAMILIES IN GLOBAL WAR ON TERROR

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

Mr. WILSON of South Carolina. Mr. Speaker, despite the constant partisan sniping that seeks to use the ups and downs of war to political advantage, President Bush was absolutely right to end Saddam Hussein's sadistic regime, and he did it at the right time.



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After September 11, we can no longer wait until threats fully materialize before we take action to protect American families.

We are truly winning the global war on terror with coalition victories in Iraq and Afghanistan, the dismantling of Libya's weapons programs, the killing of al Qaeda leaders in Saudi Arabia and Algeria, and the capture of terror cells in England, Spain, Turkey, Pakistan, and Jordan. Bin Laden terrorist leader Abu Makki surrendered yesterday in Saudi Arabia.

As President Bush said this week at the Oak Ridge National Laboratory, ''Three years ago, the world was very different. Terrorists planned attacks with little fear of discovery or reckoning. Outlaw regimes supported terrorists and defied the civilized world, without shame and with few consequences. The world changed on September the 11th, and since that day we have changed the world. We are leading a steady, confident, systematic campaign against the dangers of our time.''

In conclusion, may God bless our troops, and we will never forget September 11.

## NEW YORK TIMES ARTICLE ON MEDICARE BILL

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

Mr. STRICKLAND. Mr. Speaker, the world now knows that the Bush administration withheld reliable information regarding the true cost of the Medicare privatization bill they pushed through this House in the middle of the night.

According to The New York Times today, and I quote, ''New government estimates suggest that employers will reduce or eliminate prescription drug benefits for 3.8 million retirees when the Medicare bill becomes operable in 2006.'' That represents one-third of all the retirees with employer-sponsored drug coverage, according to documents from the Department of Health and Human Services.

We know how that bill passed in the middle of the night, 6 o'clock in the morning, after the vote was held open for 3 hours, got the President out of bed at 4 o'clock in the morning to twist arms, and we have done this to Americans, especially America's retirees.

It reminds me of a verse from there scriptures that says ''Men love darkness rather than light because their deeds are evil.''

## PROTECTING MARRIAGE IS A CRITICAL NATIONAL ISSUE

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

Mr. PITTS. Mr. Speaker, today the Senate will vote on an issue of critical national importance: marriage. The issue is whether we will stand idly by as a few unelected judges redefine the family for us or if we will take a stand and say ''enough is enough.''

The best home for kids is when their biological parents, mom and dad, live at home, are married, and are engaged in the lives of their children. Unfortunately, many claim this is an issue for the States. Indeed, it is, if that is what were happening, but it is not. Courts are circumventing the States in order to make this happen so that we will never debate it, so that States will never debate it, and the American people will never debate it. That is just how activists want it.

There is no way around it. We need to amend the Constitution. The Federal marriage amendment is supported by a very diverse coalition. Voting on it is hardly politics as usual. It is the least we can do to protect the stability of our communities and the best future for our children. The United States Congress should vote for the marriage protection amendment to the Constitution.

## PRESCRIPTION DRUG IMPORTATION

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

Mr. EMANUEL. Mr. Speaker, today's New York Times reports that almost 4 million senior citizens will lose their employer drug coverage and prescription drug coverage when the new Medicare law goes into effect in 2006. In most cases, this will result in beneficiaries getting worse drug coverage than they had before this bill was passed. My Republican colleagues sure have a funny way of implementing reform over there.

In addition to not only 4 million more seniors getting worse coverage than originally planned, this bill will cost the taxpayers $150 billion more than Republicans originally said. If we had taken the steps to deal with prices originally in the Medicare bill, more employers would be able to afford the drug coverage they originally planned and senior citizens and taxpayers would save money.

Yesterday, the House affirmed for the third time this session a bipartisan support for prescription drug reimportation. We have employers dropping their drug coverage because they can no longer afford rising drug prices. We have a Medicare card that now gives seniors higher prices and a lot more confusion than buying drugs from Canada and Europe, and we have a Medicare bill not designed for seniors in mind.

Instead of a philosophy of the customer is always right, this bill says that special interests are always right.

## MEDICAL JUSTICE SYSTEM

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

Mr. BURGESS. Mr. Speaker, there is no higher priority for us than the reform of the medical justice system. It costs the country $230 billion a year, and right now we have never been closer to getting this ball across the goal line. We have passed the bill in this House, and we have a President in office who has said he will sign this bill. Our only problem is 400 feet away from us, on the other side of the Capitol.

Mr. Speaker, we have also never been further away. If we lose this election at the Presidential level, it will be nuclear winter as far as any type of meaningful medical liability reform in this country for easily the next 4 or 8 years time.

And it is important, Mr. Speaker, because $230 billion is what it cost this country in the medical justice system in the year 2003. One-fifth of that went to compensate patients for their actual injuries, and one-fifth of it went to the trial bar.

The impact of the medical liability crisis is clear: Patients, doctors, and hospitals are put in jeopardy while the plaintiff bar continues to enrich itself.

## FALSE POSITIVES ON THE ECONOMIC FRONT

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

Mr. PASCRELL. Mr. Speaker, we have heard a lot recently about the so-called improving economy, but I want to bring my colleagues' attention on both sides of the aisle to the fact that 90 percent of the new jobs created since August of 2003 are in industries that pay an average hourly wage that is less than the national average, or that many of these new jobs are part-time or temporary.

So the President says, look, I have only lost, with this upturn in the last 3 months, I have only lost 1.5 million jobs. If Clinton ever came before us and said that, we would all have booed him out of here, and my Republican colleagues know it.

They have never mentioned that since the tax cut took effect there are actually 2.3 million fewer jobs than the administration projected that would be created by the enactment of its tax cuts.

Merrill Lynch put it more aptly: The number of millionaires jumped 14 percent last year. There is a middle-class squeeze. The Bush tax cuts, which included a reduction in the top tax rate as well as reductions in taxes on estates, led the Wall Street Journal to report: This helped bolster the fortunes of the fortunate.

## MISUSE OF INTERNATIONAL COURT OF JUSTICE

(Mr. PENCE asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, last week was a dark day in the history of international law. By a vote of 14 to 1, the International Court of Justice at The Hague condemned Israel's right of self-defense in the construction of a security fence to protect innocent civilians from terrorist attacks.

During my visit to Israel in January, I saw firsthand, as I toured the fence, how the fence each and every day protects innocent civilians' lives. I came back and, along with the gentlewoman from Nevada (Ms. BERKLEY), authored a resolution, cosponsored by 163 of my colleagues. Today, in form and fashion, this will come to the floor of Congress as H. Res. 713.

Today, Congress will respond by standing strongly and boldly with our precious ally, Israel, in her right to defend her own innocent civilians from terrorist assault. I urge all of my colleagues to join us as cosponsors again and, of course, to support H. Res. 713, deploring the misuse of the International Court of Justice by a majority of the United Nations General Assembly for narrow political purposes.

## ECONOMIC RECOVERY

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

Mr. McDERMOTT. Mr. Speaker, in the coming months, we are going to hear a lot of talk from our Republican friends about an economic recovery. No doubt they will use statistics to claim that the President's economic policies are working, but do not go telling that to the middle-class families in my district about a recovery, because they have not seen one.

Since the President was inaugurated, America has lost 1.8 million jobs in the private sector. Mr. Bush is in a race with Mr. Hoover to have the worst administration in this last century.

Most of the few new jobs we are creating pay lower wages than the national average, most come without health care benefits, and yet the President still maintains his economic policies, cutting taxes for the wealthy and outsourcing jobs, are the way of solving the problems.

The American people know better. The President can say things are looking up. He can repeat that line over and over and over and over again, but he cannot hide the truth. The economy is still in trouble.

Fortunately, in 111 days, the Americans will get a chance to let the President know about how they feel about his economic recovery. When they do, the President will be packing his bags and heading back to Texas. November 2 is coming, Mr. Speaker.

□ 1015

## AUSTRALIAN FREE TRADE AGREEMENT

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

Mr. RYUN of Kansas. Mr. Speaker, I rise in support of the Australian-U.S. Free Trade Agreement, which will be good for our farmers, manufacturers, and businesses both small and large. Last year, Australia imported $44.5 million worth of transportation equipment, $20.9 million in manufactured machinery, and $7.1 million in food products from Kansas alone. These strong figures characterize the trade relationship between Kansas and Australia, which is destined to grow substantially.

In 2003, Australia was the 10th largest export market for my State. With the Free Trade Agreement in place, 99 percent of Kansas' goods will enter Australia tariff-free. I believe this will translate into higher revenues for small businesses, greater agricultural trade for farmers and more jobs for Kansans.

What will be good for Kansas will also be good for the rest of the Nation. In fact, it is expected that manufacturing exports will increase by at least $2 billion, significantly boosting the economy. We currently run a trade surplus with Australia, and the Free Trade Agreement will ensure that this strong trade relationship continues.

I urge my colleagues to support this important piece of legislation.

## ENVIRONMENTAL PROTECTION

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

Mr. BLUMENAUER. Mr. Speaker, we are in the midst of an important national debate on environmental protection, particularly in light of over 300 Bush administration environmental rollbacks. Yesterday was perhaps the most important announcement from this administration as they have opened up 60 million acres in national forests that were previously protected after extensive rulemaking throughout the Clinton administration. They now propose to turn that on its head and to abrogate Federal responsibility for our Federal land. The forests will be opened unless every State moves to protect, without national standards or safeguards.

It is unrealistic to expect every State to withstand extreme pressures from the special interests. History shows us that. The reason that every major environmental law was enacted at the Federal level was because we needed uniform national standards, and State stewardship was not adequate. The public knows that environmental protection to avoid a sad patchwork in our national forests requires that the Federal Government and this administration exercise full partnership. Sadly, the administration does not understand or support that concept.

## SOLDIER HEROISM: STAFF SERGEANT ADAM SYKES

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

Mr. STEARNS. Mr. Speaker, I rise to pay tribute to an American hero. Staff Sergeant Adam Sykes decided not to attend Georgetown University so that he could serve our Nation in Iraq.

In a tense battle in April 2003, Sykes's unit was pinned down by an Iraqi ambush. He quickly rallied two of his squads in a counterattack. He positioned both squads and charged an enemy stronghold all by himself, bounding over 70 meters of fire as it swept across the ground. He reached his objective and cleared it with a grenade and a machine gun. Then, while still exposed to the enemy, he climbed to the third floor of a building so that he could get a good vantage point to call in mortar fire. Additionally, he moved to a squad that had taken casualties and managed himself to help in their evacuation.

After the awards ceremony, Sykes said, ''So many people are pouring out their hearts over there trying to make things right.''

May God bless the men and women of our Armed Forces and may God bless America.

## DEMOCRATIC CAUCUS MEETS WITH THEIR VICE PRESIDENTIAL NOMINEE

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, we had a very positive event this morning, and that was the meeting of the House Democratic Caucus with the Vice Presidential nominee-to-be, JOHN EDWARDS. I think it is important to note what a hopeful and bright, engaging, but very committed and dedicated person and human being he is. I believe what America needs today is to look to the future for a greater hope for our young people, a peaceful world, a resolving of crises around the world. JOHN EDWARDS brings to this great Nation an opportunity to work toward a conciliation, not stepping away from the war on terror, but standing up to it and bringing more allies to the table. What a wonderful new day to know that America does have hope.

And so, Mr. Speaker, I look forward to the opportunity for debate and for this distinguished Member of the Senate to be able to inform America of the greatness of his desire to serve but, more importantly, the hopefulness that he brings to America.

## EXPRESSING PRIDE IN NORTH CAROLINA'S JOHN EDWARDS

(Mr. MILLER of North Carolina asked and was given permission to address the House for 1 minute.)

Mr. MILLER of North Carolina. Mr. Speaker, as many other North Carolina Members have in the last few days, I rise to express my hometown pride in the presumptive Vice Presidential nominee of my party, JOHN EDWARDS. JOHN EDWARDS has been very, very successful in his life. We used to call that the American Dream. But that is not where he started out. Where he started out and how he got where he is today is important, and he has learned from it.

I know that my colleagues on the other side of the aisle are very tired of hearing that Senator EDWARDS is the son of a mill worker, but it is true and it is important. He understands what most folks' lives are like because his life has been the same way. His father worked in the mill, as my father did. His mother worked in the post office. His life has been like the lives of ordinary Americans. He had to depend on public schools to get ahead. Wallace and Bobbi Edwards could never in this world have sent JOHN EDWARDS to some expensive New England boarding school. He had to go to the public schools. He understands to the depth of his soul the importance of public education for middle-class Americans and the importance of public education in creating opportunities for ordinary Americans.

## TAX RELIEF IS WORKING TO STIMULATE THE ECONOMY

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

Mr. PORTMAN. Mr. Speaker, there has been a lot of discussion on this floor over the past year about the tax relief we passed last year for the American people, for our families, small businesses and investors. In fact, even this morning I heard again how we could not afford this tax relief, how it was wrong, how we should not have done it. I have heard again and again how it has robbed our Federal Treasury.

It should be interesting to note, then, that we have just learned that the tax receipts coming into our government this year are higher than they were before we put these tax cuts in place. Why? Because the tax relief is working to stimulate the economy and increase revenue. More people are working. Salaries are higher. Corporate revenues are higher. This means the economy is strong. Robust job growth has led to more taxpayers and more taxable income. Those are facts. Tax collections this year are $48 billion higher than last year. In June our receipts were 11 percent higher than our receipts of June a year ago.

Earlier on the floor, one of my colleagues said, Gee, the other side is talking about how the economy is good. They are using statistics.

Well, yes, we are using statistics because that is what the American people care about is how their jobs are doing, how the job growth is coming. Nationwide more than 1.5 million jobs have been created in the past 10 months. This means that we are creating not just jobs but good jobs. The pessimistic view is simply wrong. Real wages are up 11 percent since December of 2000. Payroll tax revenues are up. We are creating real jobs, good jobs. This will continue because of the tax relief.

## VICE PRESIDENT CHENEY

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

Mr. PALLONE. Mr. Speaker, last week the Senate Intelligence Committee concluded that even though the CIA repeatedly told the White House that it did not have any strong evidence linking Iraq to al Qaeda, Vice President CHENEY and the rest of the Bush administration went ahead and characterized a close relationship between Iraq and al Qaeda in an attempt to justify going to war in Iraq.

Despite these findings, Vice President CHENEY refuses to back down and continues to say that there was a connection between Iraq and al Qaeda. For almost 4 years now, Vice President CHENEY has abused his power, working with oil and gas executives in secret on an energy policy that only benefits those companies, refusing to tell the American people the specifics of that energy task force, supporting no-bid contracts for his former company, Halliburton, and misrepresenting his continued financial ties to that same company . . .

The SPEAKER pro tempore. The gentleman will suspend. . . .

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida). The Chair must remind all Members that remarks in debate may not engage in personalities toward the President or the Vice President, or the acknowledged candidates for those offices.

Policies may be addressed in critical terms, but personal references of an offensive or accusatory nature are not proper.

The gentleman may proceed in order, if he wishes. . . . The gentleman's time has expired.

## U.S.-AUSTRALIA FREE TRADE AGREEMENT

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

Mr. CRANE. Mr. Speaker, when my colleagues and I vote on the U.S.-Australia Free Trade Agreement later today, I hope we do so understanding that trade with Australia currently supports over 235,000 jobs here in the United States, including over 4,400 in my home State of Illinois.

Illinois exports about $1 billion in goods and services to Australia each year, from agricultural and construction machinery, to engines, turbines and power transmission equipment, to motor vehicle parts, to general purpose machinery and to agricultural products. In short, people through nearly every sector of our economy will benefit from this agreement.

Mr. Speaker, we have a commitment to our citizens to enforce our trade agreements, which is why legislation I have authored which we will also consider today, the Customs Border Protection Act, increases by $2 million the resources USTR has to monitor and enforce our trade agreements. I think we can all agree that this is very important. However, some will argue that we should shut our borders and build a wall around our country. That would be devastating to our economy, and I hope a strong bipartisan vote on passage of the Australia FTA today will demonstrate that conclusively.

## IN DEFENSE OF TRADITIONAL MARRIAGE

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

Mr. SAM JOHNSON of Texas. Mr. Speaker, today a House committee is going to take up a bill intended to protect traditional marriage from activist Federal judges. Ultimately, I believe, a constitutional amendment is going to be necessary to ensure the American people are in charge of defining marriage. This bill marks an important step in the right direction. We have received hundreds of calls from the people of the Third District of Texas. They are hopping mad at States like Massachusetts whose recognition of same-sex marriages could threaten the time-honored institution of marriage in the Lone Star State.

Let the record show that I am a strong supporter of the traditional family, and that is one headed by a man and a woman. To protect the values of our great Nation, I hope we see floor action on this issue next week.

□ 1030

## PROVIDING FOR CONSIDERATION OF H.R. 4759, UNITED STATES-AUSTRALIA FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 712 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 712

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 4759) to implement the United States-Australia Free Trade Agreement. The bill shall be considered as read for amendment. The bill shall be debatable for two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. Pursuant to section 151(f)(2) of the Trade Act of 1974, the previous question shall be considered as ordered on the bill to final passage without intervening motion.

SEC. 2. During consideration of H.R. 4759 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

The SPEAKER pro tempore (Mr. MILLER of Florida). The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), my very good friend and Committee on Rules colleague, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this is a very exciting day. We are about to embark on the debate for a very important bipartisan issue. Let me at the outset say that there is so often attention, in fact, almost all of the attention that is focused on this institution, the United States Congress, both Houses of Congress, is on disagreements that take place, and of course those are very important. But very little attention is focused on the fact that we are able to craft major bipartisan agreements on a wide range of issues, and at this moment we are beginning debate on a measure which will enjoy very strong bipartisan support.

It is going to create an opportunity for us to expand one of the most important bilateral relationships that exists, and it is the U.S.-Australia Free Trade Agreement that will build upon the long-standing commercial ties that we have with Australia by eliminating terrorists, removing nontariff barriers, and providing better market opening opportunities for U.S. goods, services, and investment. It is a first-rate, state-of-the-art agreement that will spur growth and create jobs for Americans and Australians alike.

But the vote that we have before us today is bigger than just this one agreement. The Free Trade Agreement we have negotiated with Australia is a significant piece of our overall economic growth and trade liberalization agenda.

I want to begin by congratulating our great U.S. trade representative, Ambassador Bob Zoellick, for his tremendous work in negotiating agreements not only with Australia but with the Central American countries, with Morocco, with Bahrain, as well as his ongoing work in Thailand and the Andean countries, in Southern Africa, and in the Middle East.

Mr. Zoellick, with the support of this Congress, has made great strides in our fight to open the global marketplace to the free flow of goods, services, and capital; a marketplace where American producers, workers, consumers, and investors can freely compete; a marketplace where the U.S. is the clear global leader based on the power of our ability to innovate, adapt, and grow.

The Australia Free Trade Agreement is a significant part of moving this agenda forward. This agreement will create significant new opportunities for producers and consumers both here at home and in Australia. Under the Free Trade Agreement, tariffs on 99 percent of all U.S.-manufactured products will immediately drop to zero. Let me say that again. The tariffs on 99 percent of the products that we will be exporting, the manufacturing sector, to Australia will immediately go to zero, achieving the greatest immediate reduction ever attained in any U.S. Free Trade Agreement. This kind of comprehensive reduction would be significant in any agreement, but it is particularly significant and particularly beneficial in trade with Australia in which manufacturing actually makes up 93 percent of all U.S. exported goods.

This is also good news for States like California, which I am very honored to be able to represent here in the Congress. Our State exports almost $2 billion in goods every year. Australia is a huge market for California's high-valued manufactured goods, with computers, transportation equipment, chemicals, and machinery topping the list of major exports.

Huge gains will also be achieved in terms of market access for services, which is the fastest-growing sector both here at home and in Australia. Thousands of Americans are already employed by Australian service providers here in the United States. This Free Trade Agreement makes enormous progress in opening up service sectors in Australia to U.S. companies and investors. Market access gains were negotiated across virtually all sectors, from telecommunications to financial services to energy.

The Free Trade Agreement also contains unprecedented gains in access for U.S. entertainment products and services, something else that is very important to me as a representative from Southern California.

Protection of intellectual property rights in general represents another important achievement in the Australia Free Trade Agreement. The agreement guarantees strong protection for American innovations and encourages robust trade in cultural, scientific, and high-tech products. Patents, trademarks, content, test data, and trade secrets will be protected as well as governed by a transparent and fair regulatory process. And perhaps most important, Mr. Speaker, the Free Trade Agreement provides for strict, effective enforcement measures to protect U.S. innovators from pirates and counterfeiters.

The FTA will also expand the markets for U.S. farmers. I know that some agriculture sectors have opposed provisions in this agreement, but the fact is that this FTA will significantly increase market access in Australia for U.S. agricultural products. Our agricultural exports will immediately gain duty-free access.

Furthermore, significant progress has been gained on the large nontariff barrier to agricultural trade, that is, Australia's sanitary and phytosanitary standards. Nontransparent and often nonscientific-based rulings on the safety of U.S. agricultural goods have been a major barrier to the Australian market. But through the FTA negotiations, communication and cooperation between United States and Australia have been significantly improved. Strong commitments were also obtained to ensure that the review process is entirely science-based.

Even before passage and implementation of the Free Trade Agreement, we are seeing the effects of this greater cooperation in Australia's recent decision on pork products. U.S. pork exports have long faced a de facto ban because of Australia's animal health standards process. But through the leverage of the FTA negotiating process, U.S. trade and agricultural officials have succeeded in opening up the Australian market to processed as well as certain types of unprocessed pork. While this will no doubt be an ongoing battle as other products seek full access, there is no question that without the fuller engagement brought about by the Free Trade Agreement, U.S. farmers would still be facing formidable barriers for many of their products.

Similarly, the Free Trade Agreement makes great strides in increasing market access for our highly innovative pharmaceutical and biotech industries. The Australians made strong commitments on transparency and accountability as well as recognized the value of innovation.

In recent weeks there have been misleading assertions made that this Free Trade Agreement would permit Australia to levy sanctions against the United States if we were to enact a drug reimportation bill. I do not happen to be a supporter of the issue of drug reimportation, but I think it is important to make clear the disagreement in no way prevents the United States from enacting drug reimportation legislation. It is existing Australian law, existing Australian law, that prohibits the export of drugs purchased within their national health care system, the PBS, which constitutes over 90 percent of the market. In addition, it prohibits the export of

drugs purchased outside of their system except by the original manufacturer or their licensed Australian distributor. Unlike Canadian law, Australian law prohibits pharmacies from selling drugs outside of Australia.

Again, Australian domestic law prohibits reimportation, not the Free Trade Agreement. Therefore, any future reimportation law implemented in the United States would have no bearing whatsoever on the Australian system and would not be actionable as a trade dispute.

Clearly, the U.S.-Australia Free Trade Agreement is a win-win for producers, consumers, and workers in the United States and Australia. It will create new opportunities, spur investment, create good jobs, and increase access to high-quality consumer goods. It will also strengthen our relationship. This is one of the very important aspects of this, Mr. Speaker. This will strengthen our relationship with one of our most important and significant allies in the global war on terror.

Since the September 11 attacks on the Pentagon and the World Trade Center, we have seen Australia provide over 1,500 troops in addition to military equipment to support the U.S.-led coalition to combat global terrorism. Specifically, Australia has provided significant support for our mission in Iraq, an integral part of the war on terrorism, by contributing everything from fighter jets to reconnaissance forces.

While our partnership has been strong for many decades and we have clearly seen it most evident in this global war on terror and we all remember very vividly the brilliant address that was given to a joint session of Congress by Prime Minister Howard here in this body, we have seen the relationship with Australia grow even more, and they are one of our closest friends.

With this Free Trade Agreement we have an opportunity to strengthen even further our ties with that key ally of ours. It allows us to advance our agenda to improve American competitiveness, enhance our position as the global economic leader, and create thousands of new job opportunities for Americans.

Mr. Speaker, I look across the other side of the aisle, and I see the gentleman from New York (Mr. CROWLEY), who has worked very hard in working to bring about bipartisan support for this effort, and I do believe, again, that this is further evidence of our quest to work in a bipartisan way to bring about trade liberalization.

With that, I urge strong support of both the rule and the agreement itself.

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

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

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

Mr. MCGOVERN. Mr. Speaker, I want to thank the gentleman from California (Mr. DREIER), the distinguished chairman of the Committee on Rules, for yielding me the customary 30 minutes.

Mr. Speaker, the U.S.-Australia Free Trade Agreement is the third Free Trade Agreement the Bush administration has sent to Congress under the Fast Track Authority granted in 2002, and it is the first trade agreement made between two affluent industrialized nations.

The United States and Australia have many similarities in terms of our economic development. This is particularly true in the manufacturing sector, and this agreement lifts 99 percent of the manufacturing tariffs between our two nations, which should provide many mutual benefits and comparable advantages.

The U.S. currently has an $8 billion trade surplus with Australia in the area of manufactured goods and also in several key agricultural exports. In these areas this agreement should continue to promote our economic interest, contribute to job creation here at home, and further strengthen our longstanding alliance in economic partnerships. These are all hallmarks of a Free Trade Agreement made among equals.

In the area of internationally recognized labor standards and rights, this trade agreement adopts the standard for each nation to effectively enforce its own laws. I want to be clear that I do not support this model, and I am disappointed that the Bush administration chose not to build on the model established in the U.S.-Jordan agreement and include enforceable labor standards in the core of the agreement.

Australia has very strong labor rights, an effective enforcement regime, and a strong independent judiciary. So I am not concerned that the labor provisions will prove detrimental to Australian or U.S. workers, but I do believe that, once again, we have squandered an opportunity to set a higher benchmark for future trade agreements, one that commits our trading partners to achieving the five core international labor standards and not just the mere enforcement of existing domestic labor laws, which can change at any time and are subject to the political whims of whatever government is in power.

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We cannot and should not continue to pursue this one-size-fits-all approach to trade agreements, particularly in the area of labor standards, environmental standards, and the settlement of disputes and especially as we pursue trade agreements with countries in very different stages of economic development from our own.

I must admit, Mr. Speaker, that in general I have heard nothing but good things about the U.S.-Australia Free Trade Agreement. So imagine my surprise when I woke up Monday morning to read on the front page of the New York Times that this trade agreement may undercut the importing of inexpensive drugs.

Mr. Speaker, I ask unanimous consent to include this article in the RECORD.

The SPEAKER pro tempore (Mr. MILLER of Florida). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The article referred to is as follows:

[From the New York Times, July 12, 2004]

TRADE PACT MAY UNDERCUT INEXPENSIVE DRUG IMPORTS

(By Elizabeth Becker and Robert Pear)

WASHINGTON, July 11.—Congress is poised to approve an international trade agreement that could have the effect of thwarting a goal pursued by many lawmakers of both parties: the import of inexpensive prescription drugs to help millions of Americans without health insurance.

The agreement, negotiated with Australia by the Bush administration, would allow pharmaceutical companies to prevent imports of drugs to the United States and also to challenge decisions by Australia about what drugs should be covered by the country's health plan, the prices paid for them and how they can be used.

It represents the administration's model for strengthening the protection of expensive brand-name drugs in wealthy countries, where the biggest profits can be made.

In negotiating the pact, the United States, for the first time, challenged how a foreign industrialized country operates its national health program to provide inexpensive drugs to its own citizens. Americans without insurance pay some of the world's highest prices for brand-name prescription drugs, in part because the United States does not have such a plan.

Only in the last few weeks have lawmakers realized that the proposed Australia trade agreement—the Bush administration's first free trade agreement with a developed country—could have major implications for health policy and programs in the United States.

The debate over drug imports, an issue with immense political appeal, has been raging for four years, with little reference to the arcane details of trade policy. Most trade agreements are so complex that lawmakers rarely investigate all the provisions, which typically cover such diverse areas as manufacturing, tourism, insurance, agriculture and, increasingly, pharmaceuticals.

Bush administration officials oppose legalizing imports of inexpensive prescription drugs, citing safety concerns. Instead, with strong backing from the pharmaceutical industry, they have said they want to raise the price of drugs overseas to spread the burden of research and development that is borne disproportionately by the United States.

Many Democrats, with the support of AARP, consumer groups and a substantial number of Republicans, are promoting legislation to lower drug costs by importing less expensive medicines from Europe, Canada, Australia, Japan and other countries where prices are regulated through public health programs.

These two competing approaches represent very different ways of helping Americans who typically pay much more for brand-name prescription drugs than people in the rest of the industrialized world.

Leaders in both houses of Congress hope to approve the free trade agreement in the next week or two. Last Thursday, the House Ways and Means Committee endorsed the pact, which promises to increase American manufacturing exports by as much as $2 billion a year and preserve jobs here.

Health advocates and officials in developing countries have intensely debated the effects of trade deals on the ability of poor nations to provide inexpensive generic drugs to their citizens, especially those with AIDS.

But in Congress, the significance of the agreement for health policy has generally been lost in the trade debate.

The chief sponsor of the Senate bill, Senator Byron L. Dorgan, Democrat of North Dakota, said: ''This administration opposes re-importation even to the extent of writing barriers to it into its trade agreements. I don't understand why our trade ambassador is inserting this prohibition into trade agreements before Congress settles the issue.''

Senator John McCain, an author of the drug-import bill, sees the agreement with Australia as hampering consumers' access to drugs from other countries. His spokesman said the senator worried that ''it only protects powerful special interests.''

Gary C. Hufbauer, a senior analyst at the Institute for International Economics, said ''the Australia free trade agreement is a skirmish in a larger war'' over how to reduce the huge difference in prices paid for drugs in the United States and the rest of the industrialized world.

Kevin Outterson, an associate law professor at West Virginia University, agreed.

''The United States has put a marker down and is now using trade agreements to tell countries how they can reimburse their own citizens for prescription drugs,'' he said.

The United States does not import any significant amount of low-cost prescription drugs from Australia, in part because federal laws effectively prohibit such imports. But a number of states are considering imports from Australia and Canada, as a way to save money, and American officials have made clear that the Australia agreement sets a precedent they hope to follow in negotiations with other countries.

Trade experts and the pharmaceutical industry offer no assurance that drug prices will fall in the United States if they rise abroad.

Representative Sander M. Levin of Michigan, the senior Democrat on the panel's trade subcommittee, voted for the agreement, which could help industries in his state. But Mr. Levin said the trade pact would give a potent weapon to opponents of the drug-import bill, who could argue that ''passing it would violate our international obligations.''

Such violations could lead to trade sanctions costing the United States and its exporters millions of dollars.

One provision of the trade agreement with Australia protects the right of patent owners, like drug companies, to ''prevent importation'' of products on which they own the patents. Mr. Dorgan's bill would eliminate this right.

The trade pact is ''almost completely inconsistent with drug-import bills'' that have broad support in Congress, Mr. Levin said.

But Representative Bill Thomas, the California Republican who is chairman of the Ways and Means Committee, said, ''The only workable procedure is to write trade agreements according to current law.''

For years, drug companies have objected to Australia's Pharmaceutical Benefits Scheme, under which government officials decide which drugs to cover and how much to pay for them. Before the government decides whether to cover a drug, experts analyze its clinical benefits, safety and ''cost-effectiveness,'' compared with other treatments.

The trade pact would allow drug companies to challenge decisions on coverage and payment.

Joseph M. Damond, an associate vice president of the Pharmaceutical Research and Manufacturers of America, said Australia's drug benefit system amounted to an unfair trade practice.

''The solution is to get rid of these artificial price controls in other developed countries and create real marketplace incentives for innovation,'' Mr. Damond said.

While the trade pack has barely been noticed here, it has touched off an impassioned national debate in Australia, where the Parliament is also close to approving it.

The Australian trade minister, Mark Vaile, promised that ''there is nothing in the free trade agreement that would increase drug prices in Australia.''

But a recent report from a committee of the Australian Parliament saw a serious possibility that ''Australians would pay more for certain medicines,'' and that drug companies would gain more leverage over government decisions there.

Bush administration officials noted that the Trade Act of 2002 said its negotiators should try to eliminate price controls and other regulations that limit access to foreign markets.

Dr. Mark B. McClellan, the former commissioner of food and drugs now in charge of Medicare and Medicaid, said last year that foreign price controls left American consumers paying most of the cost of pharmaceutical research and development, and that, he said, was unacceptable.

Mr. MCGOVERN. At the last minute at the bidding of U.S. pharmaceutical companies, but without consultation with Congress, the USTR attempted to persuade Australia, which provides a universal prescription drug benefit to all Australian residents, to change its national health care system for pricing drugs. These changes would have resulted in Australians having to pay higher prices for their prescription drugs.

In other words, according to the administration, because we have high drug prices here in the United States, the solution to our problem is to make every other country feel our pain and force them to raise their drug prices. The Republican leadership in this House calls this leveling the international playing field for prescription drug prices. I call it bad precedent and bad policy.

Not surprisingly, Australia rejected this proposal; but in a move to appease U.S. negotiators, Australia did agree to language calling for greater transparency in how it prices drugs and for recognizing the need for competitive pharmaceutical markets.

Drug industry officials have hailed this language as a big victory and the first step in raising the issue of prescription drug pricing to a higher level in trade negotiations.

Even more controversial is the prescription drug provision in chapter 17 of this agreement, the chapter dealing with intellectual property. This provision protects the exclusive right of drug patent owners, usually the large drug companies, to prevent the importation of their patented drugs. In short, Mr. Speaker, the drug companies get to set national policy on the reimportation of drugs.

The USTR argues that this is consistent with current U.S. law, which bans prescription drug reimportation. However, as every Member of this House well knows, current law is the subject of vigorous debate. In fact, both Houses of Congress have recently passed bills that would change current law. While this debate has focused on reimporting drugs from Canada, it does not mean that the debate might not broaden to include other modern industrialized nations such as the European Union, Australia, and Japan.

So if Congress changes U.S. law and allows the import of patented drugs, then that revised law will be inconsistent with U.S. obligations under this agreement.

Mr. Speaker, when the Congress is in serious discussions and has taken votes to change a current law, it is highly inappropriate, in my view, for the USTR to negotiate a specific provision in a free trade agreement that could create a potential conflict or a violation of that law in the near future. The fact that this provision is in the trade agreement is even more baffling when there is absolutely no mandate by Congress in trade negotiating authority to include such provisions in the FTA.

Mr. Speaker, these proposals on prescription drugs were brought to the negotiating table by the USTR at the last minute without congressional consultation. When Congress renewed fast track trade authority for the Bush administration in 2002, it established what it called the Congressional Oversight Group to foster communications between the USTR and the congressional leaders whose committees have jurisdiction over trade matters. In fact, our Committee on Rules chairman, the gentleman from California (Mr. DREIER), and our ranking member, the gentleman from Texas (Mr. FROST), are members of that oversight group. The goal of the oversight group was to make it easier for the administration to keep Congress informed about what was going on at the negotiating table.

The administration does not appear to have checked in with Congress before it offered its last-minute idea to dismantle the Australian health care system. If the administration had asked us about this idea, we would have told them what the Australian Government told them during the actual negotiations, no way. The Trade Act of 2002 requires the administration to consult with Congress as it negotiates trade agreements, not with the pharmaceutical industry.

With all due respect, the Bush administration could avoid future embarrassments of this kind by consulting more with the congressional oversight group and paying less attention to the bad ideas of the drug industry lobbyists.

Mr. Speaker, let me conclude my remarks with one final and very personal observation on a related matter. I have the greatest respect for the government and the people of Australia. I have every reason to believe this free trade agreement will be approved, further cementing the economic and political ties between our two nations. I am,

however, deeply concerned by its ruthless treatment and disregard of East Timor's rights to oil and natural gas deposits in the Timor Sea. We all remember how Australia led the international force to protect East Timor in 1999 from the bloody and devastating attacks by Indonesia-supported militias when the Timorese people first voted for their independence.

However, ever since 1999, Australia has taken in an average $1 million every day from petroleum extraction that may rightfully belong to East Timor.

At the root of this problem is Australia's refusal to negotiate and resolve maritime boundaries with East Timor. The U.S. and Australia scarcely took 1 year to negotiate a free trade agreement. Australia has been dragging its heels since 1999 to resolve this dispute with East Timor. Australia even unilaterally withdrew from the dispute mechanisms established under international law to avoid having to act in good faith on this issue.

Meanwhile, Australia keeps pumping out the oil from undersea deposits and even selling the rights to exploit even more of these deposits to foreign companies.

Australia is the wealthiest nation in its region and one of the wealthiest nations in the world. East Timor, the world's newest democracy, is also the world's poorest nation. Currently, 41 percent of East Timorese live on less than 55 cents a day. East Timor's elected President, Xanana Gusmao, has said the boundary dispute is a question of life or death. The people of East Timor do not want to be poor. They do not want to be begging for charity from wealthy countries. They do not want to end up as a failed state. They want to be self-sufficient.

Australia needs to do the right thing by East Timor: rejoin the international dispute resolution mechanism for maritime boundaries, refrain from offering disputed areas for new petroleum contracts, and expeditiously negotiate in good faith a permanent maritime boundary in the Timor Sea.

The U.S.-Australia Free Trade Agreement was negotiated between two sovereign nations for their mutual benefit and respecting each other's rights and interests. It exemplifies good relationships between nations. Australia needs to show the same respect for the rights and interest of its newest democratic neighbor, East Timor.

Finally, Mr. Speaker, let me point out for the record that although the House has generally adopted special rules to debate trade agreements submitted to Congress under fast track trade procedures, they are technically not necessary. Under the Trade Act of 1974, which Congress renewed two years ago, our standing House rules limit debate on trade agreements to a total of 20 hours and impose a number of limitations on our usual rules of debate. Under these special fast track rules, Members cannot offer motions to recommit the bill or reconsider a vote.

Now, keep in mind that these restrictions on Members' rights to debate come at the end of a process that severely restricts our right to participate in trade negotiations and prevents us from amending the terms of the trade agreement once the administration sends implementing legislation to Congress.

While both Democrats and Republicans appear to agree that 2 hours is enough time to debate this Australia legislation today, we should all recognize that 2 hours may not be enough time to debate other legislation the House may bring up in the future under fast track procedures.

For example, when the House debated the NAFTA agreement in 1993, the Committee on Rules granted a rule allowing for 8 hours of debate. Who knows, it is quite possible that we will have a trade debate that lasts the full 20 hours allowed under the rules of the House. This body and the American people would probably benefit from such an exhaustive debate over a country's trade policies. I hope that providing 2 hours for debate does not become the standard for these critical issues.

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

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to state once again that I am very gratified to see the strong and overwhelming bipartisan support for this important agreement, demonstrating that Democrats and Republicans alike can come together and address such a critical issue.

I would like to just take one moment before yielding to my friend, the gentleman from Georgia (Mr. LINDER), to say what I did in my opening statement, and that is the issue of reimportation is one that exists not in this free trade agreement at all, but instead under the PBS, which is the Prescription Benefit System, the structure that exists in Australia today.

Now, I will say that there was a consultative process that was ongoing in a bipartisan way with this administration, the U.S. Trade Representative, and members of the subcommittees of Congress. In fact, we are in the process right now of getting the dates of those meetings and the consultation process as it took place, and I am going to be entering those into the RECORD, because I think it is important to note that there has been a very, very important discussion which has taken place between this administration and Democrats and Republicans in both Houses of Congress on this issue.

Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LINDER), one of the most thoughtful advocates of trade liberalization, the chairman of the Committee on Rules Subcommittee on Technology, in the House.

Mr. LINDER. Mr. Speaker, I thank my friend and colleague, the gentleman from California (Chairman DREIER), for yielding me this time.

I rise in strong support of H. Res. 712, the rule that provides for the consideration of H.R. 4759, the U.S.-Australia Free Trade Agreement Implementation Act. I urge all my colleagues in the House to join me in supporting this rule, as well as the underlying legislation.

The full House will be debating H.R. 4759 under a closed rule which is called for under the expedited procedures by which Congress considers legislation implementing free trade agreements. To the credit of all parties concerned, this bill has broad bipartisan support within the Committee on Ways and Means and across the aisle within the full House.

With regard to the U.S.-Australia Free Trade Agreement Implementation Act, it has been an honor for me to work with the gentleman from California (Chairman DREIER) and the House leadership in generating the needed support for this important trade agreement, and I am pleased that it is being considered on the House floor today.

Over the past century and through various wars, one of America's most important and dependent allies has been Australia. After September 11, 2001, Australia again showed its support and solidarity with the United States by being one of the first nations to commit troops to Afghanistan. Australia has continued its support for the war against terrorism by committing troops to Iraq as well.

With approximately $28 billion annually in two-way trade of goods and services, Australia is also a major trading partner of the United States. Of this $28 billion, the U.S. enjoys a significant surplus, $8 to $9 billion. Australia is America's ninth largest goods export market.

In addition to trade benefits on a national scale, Georgia, the State that I am proud to represent, has benefited from trade with Australia. In fact, in 2003 Georgia had the 13th largest number of exports to Australia in the United States, with total exports valued at almost $288 million. These exports have provided, and continue to provide, high-paying jobs, jobs to the citizens of my State.

With the enactment of the U.S.-Australia Free Trade Agreement, U.S. farmers, investors, workers, and companies will further benefit from our current relationship.

Under the FTA, U.S. workers and companies will receive the most significant immediate reduction of industrial tariffs ever achieved in a free trade agreement, as more than 99 percent of U.S.-manufactured products will immediately become duty free upon entry into Australia.

Some of the particular manufacturing sectors and Georgia goods that will benefit include transportation equipment, paper products, computer and electronic products and machinery manufacturers. All U.S. agricultural exports to Australia, totaling more

than $400 million, will also receive immediate duty-free access. The FTA also removes foreign investment screening for a range of U.S. foreign investment activities, including the establishment of all new businesses in Australia.

Mr. Speaker, in conclusion, Australia is a strategic ally and an important trading partner. Now is the time to strengthen the ties that bind our two countries. America must continue to strive toward expanded free trade and not retreat into the mistaken protectionism of the past. We must work to open markets, eliminate tariffs and barriers and ensure that our Nation remains at the forefront of global economic success. The freedom to trade is a basic human liberty, and its exercise across political borders unites people in peaceful cooperation and mutual prosperity.

I urge my colleagues to support the rule so that we may proceed to debate and adopt the underlying measure.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maine (Mr. ALLEN).

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

Mr. Speaker, I rise in support of the U.S.-Australia Free Trade Agreement, but with strong reservations about its pharmaceutical provisions. On balance, the agreement will benefit consumers and businesses in both countries by lowering barriers to trade in goods and services. However, the administration has included provisions sought by the drug industry that could raise barriers to free trade in pharmaceuticals.

My concerns are as follows: first, one provision gives drug companies the right to block reimportation of their products into the United States. Since Australian law already prohibits this practice, the provision is not necessary. So why is it here? To set a precedent. If applied to trade relations with Canada, this provision would allow legal challenges under trade law to the reimportation bill that many of us favor as a source of affordable medicines for our constituents.

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The intent of the Bush administration is clear. USTR has testified that the pharmaceutical provisions in the Australia FTA ''lay the groundwork for future FTAs'' and will be applied to ''upcoming FTA negotiations with Canada and other major trading partners.''

Second, the FTA opens up Medicare for potential changes. While USTR says no changes to existing Medicare law are needed under this agreement, we should all be concerned about the precedent of subjecting our domestic health laws to modification through trade negotiations where Congress has less say and the pharmaceutical industry has more influence.

Lastly, it is not appropriate to use trade policy to interfere in other nations' health systems. The administration is working to use trade pacts to raise drug prices overseas under the illusion, the grand illusion, that that will reduce prices here at home. The U.S. will win no friends if our trade policy becomes a heavy-handed tool to raise drug prices on the citizens of our trading partners.

I support the Australia FTA. This agreement by itself will have little or no impact on U.S. health care laws, but I want to make clear that similar provisions must be kept out of future trade agreements.

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

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

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

I rise in support of this rule and in support of the agreement. This will, in fact, enhance an important relationship with Australia, a country where we already do enjoy, the record is clear, a trade surplus. It is important nationally. It is important to the State that I represent, not just for the technology industry, our number one source of export from our economy. It is going to make a difference of $4,000 per truck that is manufactured in my hometown by union machinists, painters, and Teamsters and exported to Australia.

I note that Australia has strong labor protections. One would only wish that the United States labor provisions were enforced and would provide the same level of protection to American workers to be able to organize as they see fit.

I appreciate the comment of my friend, the chairman of the Committee on Rules, referencing the importance to build a bipartisan consensus on trade in the global economy. This is a very important discussion, one that we have already enjoyed here today. I think it is making us move down a path where future and more contentious issues can be dealt with in a thoughtful fashion.

I appreciate the warning that was issued by my good friend, the gentleman from Maine (Mr. ALLEN), about the needless addition in this trade agreement of an unfortunate precedent dealing with our health policy. It is not going to affect drug reimportation now because of restrictions in Australian law, but it is not a good precedent in terms of what the majority of the House is seeking to do with prescription drugs in this country.

But I must also mention another precedent that I find equally troubling, which deals with the treatment of sugar.

It is still the policy of the United States government to penalize United States consumers, forcing them to pay far more than the world price. It discriminates against sugar-based industries in the United States, driving confectionery factories from Illinois across the border to Canada. It is troubling that we see agreements take the sugar issue off the table in a concession to that powerful interest.

This is bad for our ultimate posture on trade, because it shows us to be hypocritical. It is bad for United States consumers. It is bad for the environment. It is bad for poor people around the world who could work their way out of poverty.

I will support the rule and the agreement, but I certainly hope that this is the last provision we have that enshrines protectionist treatment for the sugar interests in this country.

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

Mr. MCGOVERN. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. MILLER of Florida). The gentleman from Massachusetts (Mr. MCGOVERN) has 13½ minutes remaining.

Mr. MCGOVERN. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, I thank the gentleman from Massachusetts (Mr. MCGOVERN) for yielding me time.

I rise in strong support of this rule as well as in strong support of the United States-Australia Free Trade Agreement.

This agreement, as was mentioned before, has strong bipartisan support, and I have been pleased to work across the aisle with not only the gentleman from California (Mr. DREIER), but the Whip, the gentleman from Missouri (Mr. BLUNT), as well as the gentleman from Virginia (Mr. CANTOR), the gentlewoman from Ohio (Ms. PRYCE); on our side of the aisle and in particular the gentleman from California (Mr. DOOLEY), the gentleman from Oregon (Mr. BLUMENAUER), the gentleman from Michigan (Mr. LEVIN) and others.

We have seen the strong bipartisan support because we both believe that this is the right thing for the United States, and it comes at the right time. Australia has been a strong friend and ally of the United States, and they have fought by our side in all the past century's major wars, as well as in Afghanistan, and they now stand with our troops in supporting our efforts in Iraq. Being our ally is not the only reason to support this deal but also because Australia has a strong economy, with labor and environmental standards comparable to our Nation and, quite frankly, comparable, if not stronger, in some cases.

Australia's minimum wage for their workers exceeds our own, and they provide universal health coverage and pension plans for their workers. Australia is our fifth-largest trading partner, worth $38 billion, which makes this FTA the most significant bilateral deal since the U.S.-Canada agreement.

American manufacturers will see immediate benefits because this FTA will eliminate 99 percent of Australian tariffs on U.S.-manufactured exports on day one of this agreement; and 93 percent of the United States trade with

Australia is from manufacturing, which is estimated to boost U.S. manufacturing exports by $1.8 billion, protecting and creating a conservative estimate of some 270,000 jobs here in the U.S.

When we talk about agriculture, I am pleased to see that over $400 million of our agriculture exports will see immediate duty free access.

Mr. Speaker, this Free Trade Agreement with Australia makes sense. This Free Trade Agreement with Australia makes sense for all the reasons I have just stated. I urge my colleagues to support the passage of this bill, and I also ask them to support this rule.

There is no Free Trade Agreement that is absolutely perfect, but if any Free Trade Agreement comes close to a no brainer, this is the one. I urge my colleagues to support it.

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

Mr. Speaker, I would just like to compliment my friend, the gentleman from New York (Mr. CROWLEY) for his very thoughtful statement.

I, too, want to join in extending congratulations not only to those on our side of the aisle who have worked in a strong bipartisan way on this issue, including the gentleman from Missouri (Mr. BLUNT), the Chief Deputy Whip, the gentleman from Virginia (Mr. CANTOR), an organization that the gentleman from California (Mr. THOMAS) and I have had in place working on trade issues for a long period of time, reaching out to my friends, the gentleman from Michigan (Mr. LEVIN), and the gentleman from Oregon (Mr. BLUMENAUER), who has worked with us on trade issues for a long period of time. I would like to say how important this bipartisan effort has been.

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

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I rise in opposition to the rule and in opposition to the bill.

The drug industry has had a pretty darn good year in this Congress. The drug industry and the Bush administration, which is kind of hard to tell them apart when you look at what the drug industry and the Bush administration fight for in this Congress, have had it their way on every single issue in front of this Congress. The drug industry comes to the Congress, goes to the administration. The administration comes to the Congress asking for whatever the drug industry asks the administration to do.

The Medicare bill, we all know by now, was, line and verse, written by the drug industry. That is why seniors are so generally unhappy with that prescription drug bill. That legislation, if you recall, had provisions to prohibit our government from negotiating lower prices for prescription drugs. That is what the drug industry wanted.

The Food and Drug Administration, once one of the best agencies of our Federal Government, has become almost an arm of the drug industry. It debates for the drug industry. It tries to educate the public on behalf of the drug industry. We see it over and over again.

Now the drug industry has its fingers in the U.S. Trade Rep's Office. You can look at what my Republican friend, the gentleman from Minnesota (Mr. GUTKNECHT), and Democratic friend, the gentleman from Illinois (Mr. EMANUEL), sent a letter out to Members of Congress saying 15 of the 25 panel members on the industry sector advisory committee for this trade agreement, appointed by the United States Trade Rep, are from the drug industry. Fifteen of the 25 panel members are from the drug industry. Not one senior group or reimportation advocate was included in the panel. The drug industry has its tentacles in the Medicare bill, in the FTA, and in the U.S. Trade Rep's office.

Now, the question is why.

First of all, I think the obvious answer is the tens of millions of dollars that the drug industry gives to my friends on the Republican side of the aisle, especially the Republican leadership and to President Bush's reelection, the millions of dollars in campaign money. So we have really should not be surprised.

But I ask my friends on the Democratic side of the aisle, do we trust President Bush and the Republican leadership to do the right thing ever on an issue that affects the drug industry?

What this legislation has, the Australian Free Trade Agreement has, is provisions written by the drug industry, for the drug industry, which ultimately could potentially handcuff the U.S. to get our drug prices down. That is what the drug industry wants. That is what President Bush wants. I do not think my friends on the Democratic side of the aisle would want that.

Mr. Speaker, it is pretty clear. I know this Australia Free Trade Agreement is going to pass this Congress, but what is important is that we send a strong message that we do not like the drug industry influence in this Australia Free Trade Agreement bill. I am asking my friends who support reimportation, who support lower prescription drug prices, and there are many of them on both sides of the aisle, certainly not the Republican leadership, but many rank and file Republicans, almost all of the Democrats who support lower prescription drugs prices, it is important to vote no on this, to send that message that we will not allow the drug industry to infiltrate every part of our lawmaking process.

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

It is great to see such extraordinary bipartisan support for this very important agreement.

Let me take just a few minutes to respond to the comments of my good friend from Ohio. As I said in my opening remarks, Mr. Speaker, the Australia Free Trade Agreement does not prevent Congress from passing legislation on drug reimportation. Under the U.S. Constitution, we all know that no trade agreement could do this.

We also need to know that there has been ongoing consultation between this administration, the U.S. Trade Representative and a bipartisan group here in the United States House of Representatives, as well as in the United States Senate.

We know that any law that is passed by the Congress will always trump any kind of Free Trade Agreement. There is nothing in the Australia Free Trade Agreement or in the implementing legislation, H.R. 4759, that changes U.S. patent law or the Federal Food, Drug and Cosmetic Act, FDCA.

We also think it is very important for our colleagues to understand that the patent provision in the Free Trade Agreement restates U.S. law and applies to all patents. It restates U.S. law and applies to all patents, Mr. Speaker, not just pharmaceuticals. Not including this provision would be devastating to U.S. intellectual property rights holders in every single sector of our economy.

It is one of the things I was talking about in my opening remarks. The issue of piracy, counterfeiting, intellectual property violations, those are violating property rights, and we clearly feel strong about the need to maintain those private property rights.

Australian law already bans the exportation of drugs dispensed under its pharmaceutical benefit scheme, the PBS. Unlike Canada, the law in Australia explicitly prohibits other parties, such as wholesalers or pharmacists, from exporting non-PBS dispensed drugs.

Therefore, I think that, as I listen to my friend from Ohio talking, he could not be more inaccurate in his assessment of how this came out or in his assessment of his relationship between those of who do truly want to do everything that we possibly can to lower the cost to consumers of pharmaceutical drugs, of basically any kind of consumer product.

We are here to do what we can to improve the standard of living and quality of life for our consumers.

□ 1115

We happen to believe in bringing about an agreement like this, and so I think it is important to note that any change in U.S. law would have no practical effect on reimportation from Australia due to Australian domestic law that exists, regardless of the free trade agreement; and, therefore, Australia would have no plausible basis to claim harm or to pursue any kind of sanctions.

I think it is very important, Mr. Speaker, for our colleagues to understand the fact that this is an agreement which is focused on ensuring the very important intellectual property

rights, but at the same time, working to ensure that consumers have access to the best quality product at the lowest possible price, whether it is a pharmaceutical drug or whether it is a product coming from my great entertainment industry in Hollywood.

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

Mr. MCGOVERN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. LEVIN).

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

Mr. LEVIN. Mr. Speaker, I want to put in perspective why I support the rule and why I will vote for this agreement. It is a somewhat different perspective than the gentleman from California's (Mr. DREIER).

There are some very strong provisions in this legislation, and we will talk about it more during the 2 hours, on manufactured goods, on agriculture, on services. These are solid provisions that work to the advantage of American workers and businesses.

As to prescription medicines, USTR did try to get Australia, through these negotiations, to consider changes within their structure. We sent a letter, a number of us, to USTR saying we did not consider that to be a legitimate effort, and they dropped it.

What is left here are two provisions, one regarding transparency, which will not affect U.S. law, and the other relates to reimportation. The fact is, in this agreement there is incorporated the general law protecting U.S. patent holders. It is put in this agreement; and I suppose theoretically, it could lead to someone saying that if we pass the reimportation law it would violate that agreement.

It does not become operational. As mentioned here, the laws of Australia prohibit exports to the United States. So, in essence, we have a provision here that can have no operational effect on the effort here, and I totally support it, to allow reimportation of medicines.

So what do we do as a result? We have the same dilemma when it comes to a nation enforcing its own laws when it comes to labor standards. I very much object to the use of that standard in general. In Australia, it does not matter because their labor laws are essentially the same as ours. So we have two provisions here, and how do we send a message?

My own judgment is, where the agreement is otherwise strong in terms of expanded trade for the benefit of our workers and businesses, for the American public, the consumers, to say, okay, but two things, do not dare put this provision relating to patents in any agreement which would affect reimportation of drugs, do not dare do it, and if they did, it would bring down the bill. As to the core labor standards, do not dare try it in an agreement where the conditions are the opposite of or very different from Australia.

Well, CAFTA is exactly what they did with labor standards, and that is why we very much oppose CAFTA. The gentleman from California (Mr. DREIER) talks about bipartisanship. There has been zero real bipartisanship when it comes to the negotiation of CAFTA, and that is why it is going to fail. That is why it will not be brought up on this floor because it would lose. Bipartisanship has to be more than consulting with us when they think we will agree but not when there is a legitimate disagreement between the parties in an effort to work it out.

So my suggestion is to vote for this FTA; but in our debate make it very clear, when it comes to prescription medicines, do not put this kind of a provision in a bill with a country that does not prohibit exportation, and number two, when it comes to using the standard for labor and the environment, do not put it in agreements with different nations or we will fight it to the end, and that is what we are doing.

I favor a CAFTA, not this one. So I say to the gentleman from California (Mr. DREIER), the effort to consult, the effort for a bipartisan approach to trade, that has failed under this administration mainly. We do not have the same bipartisan base that we once had. With Australia, all right; but in other cases, no.

So I think we need to send a signal to this administration as to our disagreements in terms of our opposition to CAFTA, their failure to actively enforce the laws that we have, their approach to China; but I do not think these differences should force us to vote against an expansion of trade that is basically positive; and for that reason, I urge support for the rule, support for this bill, but with those strong, strong caveats and messages that I have just enunciated.

Mr. DREIER. Mr. Speaker, let me once again thank my friend from Michigan for his strong and committed bipartisan support to this effort.

I do not have any further speakers. I plan to just make some closing remarks myself. If the gentleman has no further speakers and would like to yield back the balance of his time or make remarks, I look forward to them.

Mr. MCGOVERN. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. MILLER of Florida). The gentleman from Massachusetts (Mr. MCGOVERN) has 3 minutes remaining.

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

As the gentleman from New York (Mr. CROWLEY) indicated earlier, a number of Democrats support the Australia trade agreement and feel it is fine as far as it goes, and the gentleman from Michigan (Mr. LEVIN) made the same comments as well.

However, I think it is important to note that this agreement covers less than 1 percent of U.S. trade, and it cannot make up for the Bush administration record of failing to vigorously enforce trade laws and trade agreements. It cannot make up for a failure to invest in research and development and in training American workers in cutting-edge skills and technologies to improve America's ability to compete in the global economy.

Our trading partners consistently violate the terms of their trade agreements with us; and the administration has failed to stop China, Japan, and other nations from manipulating their currencies. The administration has failed to break down barriers for American workers and American companies in key export markets such as Japan and Korea.

The Bush administration has failed to invest in the innovative technologies of the 21st century. The Bush budget has tried to eliminate the Advanced Technology Program and slashed the Manufacturing Extension Partnership and proposed cutting job-training programs by more than $1.5 billion over the past 3 years.

Republican policies have led to the loss of 1.8 million private sector jobs, and the average length of unemployment is at its highest level in 20 years, and the overall job picture is the worst in almost 40 years.

So as we take up consideration of the U.S.-Australia Free Trade Agreement, we also need to change direction and pursue policies in tax policy and job training and supporting our small and medium-sized manufacturers and R&D that will create jobs right here at home right now.

Mr. Speaker, I also want to say for the record once again that I regret very much the prescription drug provisions that are in this agreement. It is bad precedent. To my knowledge, this is the first time a prescription drug provision has been included in a trade agreement, and hopefully it will be the last time. I know that the big drug companies want to view this as what will be the norm in future trade agreements, but I will point out to my colleagues that there are millions and millions of Americans who deserve and who expect more from this administration or whatever administration is in power and from this Congress.

To the extent that there is bipartisanship on this agreement, let the record reflect that that bipartisanship will not be there. If in the future there are these prescription drug provisions included in future trade agreements, that is unacceptable.

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

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

Mr. Speaker, with all due respect to my very good friend from Massachusetts, I have no idea whatsoever he is talking about when he talks about the economy that we are in today. Since January 1 of this year, 1.26 million new jobs have been created right here in the United States. We have seen the largest surge in 45 months of manufacturing jobs. We are seeing unanticipated revenues coming into the Federal Treasury because of the tax package

that this Congress, in a bipartisan way, passed and this President signed.

We are, I believe, poised to move towards a balanced budget earlier than had been anticipated, and we have undergone some of the most serious challenges that our Nation has ever felt during the past few years.

We all know that when President Bush came into office he inherited an economy that was already slowing. Within just a couple of months, we went into recession. That was two quarters of negative economic growth.

Mr. Speaker, since that period of time, we saw 7½ months after President Bush took office the worse attack in our Nation's history on American soil when 3,000 Americans were killed on September 11 of 2001.

We saw the tremendous problem of corporate abuse, corporate scandals; and we know the challenges that that created for our economy. We saw the global war on terror proceed; and we, of course, are still struggling as we work to liberate the people of Iraq and move towards political pluralism and the rule of law and free and fair elections.

With all of those challenges, we have seen tremendous economic growth. A very important aspect of that has been trade liberalization, a policy that has enjoyed bipartisan support. Usually it is Republican-led, I will acknowledge, and there are not many Democrats who do join; but in the past, there have been Democrats who have joined in, trying to bring about the very important market-opening opportunities that we see worldwide.

This agreement is going to enjoy tremendous bipartisan support; and, again, I will say that it has been great to work with our colleagues on the other side of the aisle. My colleague, the gentleman from California (Mr. DOOLEY), is going to be retiring; but he is a Democrat who has been very thoughtful and consistently pushing trade liberalization. He helped us with the passage of Trade Promotion Authority, and he has just done a terrific job, and I will miss him when he retires from this body at the end of this year.

The gentleman from New York (Mr. CROWLEY), who stood up and spoke very eloquently on the need to pass the U.S.-Australia Free Trade Agreement, has been a leader within the whip organization on the other side of the aisle, and I mentioned my colleague, the distinguished whip, the gentleman from Missouri (Mr. BLUNT); the gentleman from Virginia (Mr. CANTOR), the chief deputy whip; and a wide range of members; the gentleman from California (Mr. THOMAS) providing the leadership that he has on the Committee on Ways and Means.

We have gotten to this point, Mr. Speaker, and this point is one which will allow us, Democrats and Republicans alike, to come together and underscore how trade liberalization is helping our economy. It is helping to create jobs.

Now, we have heard this argument raised about prescription drugs, and I will say what I have said throughout the debate. It is current law. It is current law in Australia, not part of the free trade agreement, that, in fact, ensures that reimportation will not take place. Nothing in this agreement whatsoever, nothing in this agreement will in any way impact the debate which has been ongoing in this body on the issue of drug reimportation; and if any change is made, the free trade agreement cannot in any way override that.

This issue of the administration and the consultation process, as the pharmaceutical drug question was addressed, taking place, there was broad consultation that took place, in a bipartisan way, Democrats and Republicans in both Houses of Congress, with this administration, with our U.S. Trade Representative, Ambassador Zoellick.

□ 1130

So, Mr. Speaker, I think it is very important to recognize that, on the specifics of this, it has been very, very well handled and, I think, is in many ways a model.

I will say to my friend from Massachusetts that in the U.S.-Singapore Free Trade Agreement that we put together, very similar language as we have in the Australia agreement on the pharmaceutical question. We feel strongly about the issue of intellectual property, we feel strongly about property rights, we do not like piracy, we do not like counterfeiting, and this agreement is designed to strengthen our ability to deal with that question.

Mr. Speaker, September 11 of 2001 was one of the most difficult days in our Nation's history. We were poised to hear an address before a joint session of Congress by Prime Minister John Howard, the great Prime Minister of Australia. Obviously, we were unable to do that, but Prime Minister Howard was, as I recall very vividly, here when President Bush came and addressed a joint session of Congress.

I am very proud, and I think I am the only Member who has a place in the U.S. Capitol where I have a quote from an Australian. I have a very important quote, which I would commend to my colleagues, and I will enter that into the record and not read through it right now, but I actually saw it when I visited the Australian parliament at Canberra several years ago, actually in December of 1998. I was struck by this quote by R.G. Menzies, who was one of the great, strong anti-Communist prime ministers of Australia. He talks about the importance of public service and the sacrifice that public service entails, and I have that quote hanging in the Committee on Rules upstairs, just above this Chamber.

Mr. Speaker, I think it is important for us to realize that Australia has been an important ally of ours in every single way. They have been unrelenting in their commitment to the global war on terror. They have been victimized themselves. Our September 11 was at one point an October 11, or October 6, it was an October date, that saw many Australians tragically become the victims of the challenge of international terrorism with the bombings that took place at Bali, killing many Australians. So they have suffered as well. They understand what it is like. So they have stood with us in Iraq, in Afghanistan, and in international fora in trying to deal with these challenges.

Our relationship is already, as I said, an extraordinarily strong relationship. But with the passage of this measure today, Mr. Speaker, we are going to strengthen even more that very important tie that exists between the United States of America and the wonderful people of Australia. So I urge strong support of this rule and strong support of the measure as we address it.

Mr. Speaker, I submit for the RECORD the quote by R.G. Menzies which I earlier referred to:

I believe that politics is the most important and responsible civil activity to which a man may devote his character, his talents, and his energy. We must, in our interests, elevate politics into statesmanship and statecraft. We must aim at a condition of affairs in which we shall no longer reserve the dignified name of statesman for a Churchill or Roosevelt, but extend it to lesser men who give honourable and patriotic service in public affairs. In its true that most men of ability prefer the objective work of science, the law, literature, scholarship, or the immediately stimulating and profitable work of manufacturing, commerce, or finance.

The result is that our legislative assemblies are a fair popular cross-section, not a corp d'elite. The first-class mind is comparatively rare. We discourage young men of parts by confronting them with poor material rewards, precariousness of tenure, an open public cynicism about their motives, and cheap sneers about their real or supposed search for publicity. The reason for this wrong-headedness, so damaging to ourselves, is that we have treated democracy as an end and not as a means. It is almost as if we had said, when legislatures freely elected by the votes of all citizens came into being, ''Well, thank heaven we have achieved democracy. Let us now devote our attention to something new.'' Yet the true task of the democrat only begins when he is put in possession of the instruments by which the popular will may be translated into authoritative action. In brief, we cannot sensibly devote only one per cent of our time to something which affects ninety-nine per cent of our living.—*R. G. Menzies, New York Times Magazine, November 28, 1948.*

Mr. McDERMOTT. Mr. Speaker, today, the House of Representatives considers the United States-Australia Free Trade Agreement (USAFTA). I support this trade initiative, because it's good for America and good for the people of Washington State in a number of important ways.

First, Australia is an important ally of the U.S. in an increasingly unstable world. Many Australian troops fought side-by-side American soldiers in the Vietnam War, in Afghanistan, and are providing resources to Americans in a part of the world where we increasingly need them.

Second, Australia has a long history of importing many American products—from agricultural goods grown in Washington, like apples and wheat, to products manufactured in

Washington, like electronics and airplanes. We enjoy a sizable trade surplus with Australia and since this agreement commits Australia to immediately remove tariffs on nearly every U.S. export to Australia, it will instantly provide further market access for products that come from the United States. In addition, Australia invests significantly in the United States, directly employing thousands and thousands of American jobs.

Third, Australia exports many products that Americans enjoy—like fine wines and many agricultural products. Since this agreement requires the U.S. to remove many of our tariffs on Australian goods, they immediately become more affordable to American consumers.

Although I support this agreement, I remain deeply concerned about the direction that the Bush Administration is taking this country, particularly with regard to our economy and our trade policy, which profoundly affects the ability of our country to maintain and create good paying jobs.

America's best export has always been the democratic values that we hold dear. While capitalism and open markets may boost trade flows, democratic values must also be a centerpiece of U.S. trade policy. Regretfully, this agreement continues to embody a short-sighted approach toward international trade that the Bush Administration has employed for the last 4 years. The USAFTA fails to lock in international labor and environment standards. It only requires the United States and Australia to continue to enforce their own labor and environment laws. This approach, if employed in future trade agreements with less developed countries, would do little to raise living standards in countries whose labor and environmental laws do not meet international standards. Furthermore, this approach would force American workers to compete on an uneven playing field. I do not think that is a direction that our country should go.

Today, however, the Congress considered liberalizing trade with Australia, a country that has well-developed labor and environmental laws, and a good track record for enforcing these laws, so I will not let Perfect be the enemy of Good. Our international assistance and trade programs should aim to raise living conditions here and abroad. Ultimately, I believe that the USAFTA advances these interests.

Mr. DREIER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the resolution.

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

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions will be taken later today.

## SUTA DUMPING PREVENTION ACT OF 2003

Mr. HERGER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3463) to amend titles III and IV of the Social Security Act to improve the administration of unemployment taxes and benefits, as amended.

The Clerk read as follows:

H.R. 3463

*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 ''SUTA Dumping Prevention Act of 2003''.

**SEC. 2. TRANSFER OF UNEMPLOYMENT EXPERIENCE UPON TRANSFER OR ACQUISITION OF A BUSINESS.**

(a) IN GENERAL.—Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end the following:

''(k)(1) For purposes of subsection (a), the unemployment compensation law of a State must provide—

''(A) that if an employer transfers its business to another employer, and both employers are (at the time of transfer) under substantially common ownership, management, or control, then the unemployment experience attributable to the transferred business shall also be transferred to (and combined with the unemployment experience attributable to) the employer to whom such business is so transferred,

''(B) that unemployment experience shall not, by virtue of the transfer of a business, be transferred to the person acquiring such business if—

''(i) such person is not otherwise an employer at the time of such acquisition, and

''(ii) the State agency finds that such person acquired the business solely or primarily for the purpose of obtaining a lower rate of contributions,

''(C) that unemployment experience shall (or shall not) be transferred in accordance with such regulations as the Secretary of Labor may prescribe to ensure that higher rates of contributions are not avoided through the transfer or acquisition of a business,

''(D) that meaningful civil and criminal penalties are imposed with respect to—

''(i) persons that knowingly violate or attempt to violate those provisions of the State law which implement subparagraph (A) or (B) or regulations under subparagraph (C), and

''(ii) persons that knowingly advise another person to violate those provisions of the State law which implement subparagraph (A) or (B) or regulations under subparagraph (C), and

''(E) for the establishment of procedures to identify the transfer or acquisition of a business for purposes of this subsection.

''(2) For purposes of this subsection—

''(A) the term 'unemployment experience', with respect to any person, refers to such person's experience with respect to unemployment or other factors bearing a direct relation to such person's unemployment risk;

''(B) the term 'employer' means an employer as defined under the State law;

''(C) the term 'business' means a trade or business (or [an identifiable and segregable] *a* part thereof);

''(D) the term 'contributions' has the meaning given such term by section 3306(g) of the Internal Revenue Code of 1986;

''(E) the term 'knowingly' means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibition involved; and

''(F) the term 'person' has the meaning given such term by section 7701(a)(1) of the Internal Revenue Code of 1986.''.

(b) STUDY AND REPORTING REQUIREMENTS.—

(1) STUDY.—The Secretary of Labor shall conduct a study of the implementation of the provisions of section 303(k) of the Social Security Act (as added by subsection (a)) to assess the status and appropriateness of State actions to meet the requirements of such provisions.

(2) REPORT.—Not later than July 15, [2006] *2007*, the Secretary of Labor shall submit to the Congress a report that contains the findings of the study required by paragraph (1) and recommendations for any Congressional action that the Secretary considers necessary to improve the effectiveness of section 303(k) of the Social Security Act.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall, with respect to a State, apply to certifications for payments (under section 302(a) of the Social Security Act) in rate years beginning after the end of the 26-week period beginning on the first day of the first regularly scheduled session of the State legislature beginning on or after the date of the enactment of this Act.

(d) DEFINITIONS.—For purposes of this section—

(1) the term ''State'' includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(2) the term ''rate year'' means the rate year as defined in the applicable State law; and

(3) the term ''State law'' means the unemployment compensation law of the State, approved by the Secretary of Labor under section 3304 of the Internal Revenue Code of 1986.

**SEC. 3. USE OF NEW HIRE INFORMATION TO ASSIST IN ADMINISTRATION OF UNEMPLOYMENT COMPENSATION PROGRAMS.**

Section 453(j) of the Social Security Act (42 U.S.C. 653(j)) is amended by adding at the end the following:

''[(7)] *(8)* INFORMATION COMPARISONS AND DISCLOSURE TO ASSIST IN ADMINISTRATION OF UNEMPLOYMENT COMPENSATION PROGRAMS.—

''(A) IN GENERAL.—If, for purposes of administering an unemployment compensation program under Federal or State law, a State agency responsible for the administration of such program transmits to the Secretary the names and social security account numbers of individuals, the Secretary shall disclose to such State agency information on such individuals and their employers maintained in the National Directory of New Hires, subject to this paragraph.

''(B) CONDITION ON DISCLOSURE BY THE SECRETARY.—The Secretary shall make a disclosure under subparagraph (A) only to the extent that the Secretary determines that the disclosure would not interfere with the effective operation of the program under this part.

''(C) USE AND DISCLOSURE OF INFORMATION BY STATE AGENCIES.—

''(i) IN GENERAL.—A State agency may not use or disclose information provided under this paragraph except for purposes of administering a program referred to in subparagraph (A).

''(ii) INFORMATION SECURITY.—The State agency shall have in effect data security and control policies that the Secretary finds adequate to ensure the security of information obtained under this paragraph and to ensure that access to such information is restricted to authorized persons for purposes of authorized uses and disclosures.

''(iii) PENALTY FOR MISUSE OF INFORMATION.—An officer or employee of the State agency who fails to comply with this subparagraph shall be subject to the sanctions under subsection (l)(2) to the same extent as if such officer or employee was an officer or employee of the United States.

''(D) PROCEDURAL REQUIREMENTS.—State agencies requesting information under this paragraph shall adhere to uniform procedures established by the Secretary governing information requests and data matching under this paragraph.

''(E) REIMBURSEMENT OF COSTS.—The State agency shall reimburse the Secretary, in accordance with subsection (k)(3), for the costs incurred by the Secretary in furnishing the information requested under this paragraph.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HERGER) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

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

GENERAL LEAVE

Mr. HERGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 3463, the bill now under consideration.

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

There was no objection.

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

Mr. Speaker, I am pleased to be here today with my colleagues from the Committee on Ways and Means, the gentleman from New York (Mr. HOUGHTON), who is chairman of the Subcommittee on Oversight, and the ranking members of the Subcommittee on Human Resources and Subcommittee on Oversight, the gentleman from Maryland (Mr. CARDIN) and the gentleman from North Dakota (Mr. POMEROY).

We are here, Mr. Speaker, to consider bipartisan legislation to stop businesses and those who advise them from wrongly manipulating their corporate structure to avoid paying their fair share of State unemployment taxes, a practice that has been dubbed SUTA dumping.

Not only does the bill before us today, H.R. 3463, bring a halt to the fraudulent and abusive practice of SUTA dumping, it will help strengthen the Nation's unemployment compensation system by requiring businesses that are shirking their tax responsibilities to pay up.

At the June 2003 joint hearing before the Subcommittee on Human Resources and the Subcommittee on Oversight, the U.S. General Accounting Office reported that in three-fifths of the States, laws are insufficient to prevent SUTA dumping. The GAO testified that millions of dollars already have been lost, $120 million in just 14 States over a 3-year period. This loss must be made up by higher taxes on other employers or by lower benefits for unemployed workers.

In my home State of California, estimates of the loss from SUTA dumping run as high as $100 million. In North Carolina, where State legislation already has been enacted to stop SUTA dumping, $6.8 million additional unemployment tax dollars have been collected from 10 companies that should have been making those payments all along. Another 50 companies are being investigated, and up to 100 companies are suspected of wrongdoing. This is just in one State. This is unacceptable.

The bill before us today addresses this problem by amending Federal law to direct States to have effective provisions in their State laws to prevent SUTA dumping. It also gives State unemployment program officials access to data in the National Directory of New Hires to ensure unemployment benefits are not wrongly paid to those who are working.

The Congressional Budget Office estimates that H.R. 3463 would save about $.5 billion over 5 years. However, saving money is not the only reason for us to be passing this bill today. When businesses wrongly minimize or even avoid paying their proper share of State unemployment taxes, they undermine the Nation's unemployment benefits system. They also unfairly dump their costs onto other employers.

And it is not just honest employers who lose when their competitors pay less in taxes than they should and gain an unfair competitive advantage by SUTA dumping. Employees lose if employers are more willing to lay them off or delay hiring them back, since they know higher employer taxes will not follow the layoffs. States lose as their trust fund balances fall, possibly leading to expensive borrowing, tax increases, and benefits cuts. The economy loses as businesses fold or fail to start and workers are laid off or never hired.

It is time for us to stop this practice. I ask my colleagues to join me today in passing H.R. 3463, the SUTA Dumping Prevention Act.

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

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

Mr. Speaker, I join my colleague, the chairman of our subcommittee, the gentleman from California (Mr. HERGER), in support of this legislation. It is important legislation that will save our States money and help the employers in our State that are playing according to the rules. This bipartisan bill will help ensure all employers pay their fair share into our Nation's unemployment compensation system, which provides benefits to laid-off workers.

I am pleased to have worked with the gentleman from California (Mr. HERGER) in developing this legislation, as well as the chairman of the Subcommittee on Oversight, the gentleman from New York (Mr. HOUGHTON), the ranking member of the Subcommittee on Oversight, the gentleman from North Dakota (Mr. POMEROY), and the gentleman from Michigan (Mr. LEVIN), who serves also on our Subcommittee on Human Resources.

Mr. Speaker, this bill has the support from organizations representing both workers and business.

Unemployment tax payments are determined in part by a company's experience rating, meaning their experience with laying off workers. Companies whose employees receive fewer unemployment benefits have lower tax rates, while those employers whose workers receive benefits more frequently have higher tax rates. To artificially reduce their unemployment taxes, some companies engage in a practice known as State Unemployment Tax Assessment dumping, or SUTA dumping, which allows them to lower their experience rating.

Examples of this practice include the transfer of a company's employees to a fake shell company which has a new and lower tax rate. As a result of this practice, the State loses millions of dollars in proper tax payments and, therefore, has to increase the tax rates on the vast majority of employers who are playing according to the rules.

In fact, the Department of Labor has said SUTA dumping eliminates the incentive for employers to keep employees working and returning claimants to work as soon as possible, and it unfairly shifts costs to other employers.

Mr. Speaker, according to a General Accounting Office survey, three-fifths of the States believe their laws are insufficient to prevent SUTA dumping. That is the reason, Mr. Speaker, we need to act. Fourteen States have reported they have identified specific SUTA dumping cases within the last 3 years, with losses from these cases exceeding $120 million.

H.R. 3463 would require States to impose meaningful penalties on employers that engage in SUTA dumping by shifting employees from one shell company to another. More specifically, the bill would require that a company's experience ratings for unemployment taxes follow that portion of the business that is transferred to another company if both corporate entities are ''under substantially common ownership, management or control.''

Additionally, the bill would require penalties be imposed on financial consultants who market SUTA dumping as a tax shelter.

Finally, the bill includes a provision allowing State unemployment agencies access to the National Directory of New Hires, which is used to track employment for the purposes of collecting child support. State agencies would use this information to prevent fraud, such as individuals both working and claiming unemployment benefits.

Mr. Speaker, I urge my colleagues to support this legislation designed to ensure fair and accurate payment to our Nation's unemployment compensation system.

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

Mr. HERGER. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. HOUGHTON), a member of the Committee on Ways and Means and the chairman of the Subcommittee on Oversight.

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman from California (Mr. HERGER) and the gentleman from Maryland (Mr. CARDIN). I am delighted to be here, and I rise in strong support of this particular piece of legislation, the SUTA Dumping Prevention Act.

SUTA is State Unemployment Tax Act. That is what it stands for. When I think of dumping, I usually think of the dumping of a product, but the concept here is really the dumping of cost. This is very important legislation because it provides the States with enforcement mechanisms they are going to need to prevent certain businesses who want to avoid paying their fair share of State unemployment taxes.

Now, last year, in June, the Subcommittee on Oversight held a joint hearing with the Subcommittee on Human Resources, with the gentleman from California (Mr. HERGER), and explored the dumping issue. We had a lot of expert witnesses, and they informed us about the fraud that is being conducted by a variety of unscrupulous business owners. So we learned that some employers have developed sophisticated schemes manipulating their corporate structure to avoid paying their fair amount of unemployment compensation taxes.

□ 1145

This bill prevents that.

The bill makes several improvements in current law. State unemployment benefit officials will be provided with access to national data in the National Directory of New Hires to ensure unemployment benefits are not erroneously paid to those who are already employed.

The bill also is going to save taxpayer money, and that is important. According to the Congressional Budget Office, when the bill becomes law, the government is estimated to save over $500 million over a 10-year period. How does this happen? The savings are going to come from increased tax collections of businesses that have avoided paying the unemployment taxes to begin with. So these additional revenues are going to be added to State unemployment benefit accounts, leading to lower tax rates when balances rise. This means that the companies who are the good guys, who have paid their fair share of taxes, will see lower tax rates. That is, of course, obviously what we want.

Finally, Mr. Speaker, this bill is bipartisan. We have worked closely with our friends on the other side of the aisle, particularly the gentleman from Maryland (Mr. CARDIN), the gentleman from North Dakota (Mr. POMEROY), the gentleman from Michigan (Mr. LEVIN), the gentleman from Washington (Mr. MCDERMOTT), and the gentleman from Texas (Mr. SANDLIN). So I want to thank them for their efforts also in helping to bring this legislation to the floor.

Congressional oversight is essential. It is being undermined. The bill fixes this by cutting out waste. I urge a ''yes'' vote on H.R. 3463.

Mr. CARDIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. LEVIN), a member of the Subcommittee on Human Resources and one who has worked very hard on this legislation.

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

Mr. LEVIN. Mr. Speaker, I thank the gentleman from Maryland for yielding me this time. To the gentleman from California (Mr. HERGER), the gentleman from New York (Mr. HOUGHTON), and others who have worked on this, I am pleased to join them in supporting this legislation to end a form of tax fraud called SUTA. I think everybody should understand it is State Unemployment Tax Account dumping.

I am proud that a company in my home State of Michigan, Kelly Services, was one of the first to blow the whistle on this abusive practice. Really, Kelly Services and their leadership played an indispensable role, and I think it is good for the free enterprise system of this country when people within the business community step up and say, Something is wrong; some others are not playing by the rules.

One of the fundamental principles of the unemployment compensation system is that each employer pays their fair share based on their company's layoff patterns. Employers who frequently lay off workers pay higher taxes. This ensures, first of all, fairness; and also it creates a financial incentive for employers to avoid layoffs whenever possible.

But in recent years, some companies, aided by unscrupulous accounting firms, used loopholes in the law to make it appear that their layoff rates were much lower than they actually were. We are told that these practices are not technically illegal, but they should be; and this bill will ensure that they are.

In Michigan alone, SUTA dumping costs the trust fund 50 to $100 million a year at a time when pressure on our trust fund is already great. Employers who dump make it more difficult for Michigan to increase benefits or help the long-term unemployed, and they drive up the tax rate for honest employers, making it difficult for them to hire new workers.

There is never a good time for employers to avoid paying their fair share, but this is a particularly bad time to cheat the unemployment trust fund. Unemployment is 5.6, nearly double the unemployment rate at the end of 2000. The economy has 1.8 million fewer private sector jobs and 2.7 million fewer manufacturing jobs than it had in 2000. The number of job openings in the Midwest is down by 44 percent since the end of 2000. People in Michigan and across the country are out of work through no fault of their own and have nowhere else to turn except State unemployment programs.

State unemployment trust funds have taken a beating. Thirty-one State unemployment trust funds do not currently have enough funds to withstand another recession. Four States, Minnesota, New York, Missouri and North Carolina, currently do not have enough funds in their State trust funds and have borrowed from the Federal trust fund.

I urge my colleagues to support this legislation to strengthen our State unemployment trust funds, help workers, and maintain fairness in the system.

I want to say one other thing. On an earlier bill, there was much talk about bipartisanship, and we have heard it again today on this bill. There was bipartisanship on this bill. It is sad there was not when it came to extension of Federal unemployment benefits. There was none. The Republicans, this majority, in essence, they collaborate with us when they think we will agree with them; but if they think we will disagree, there is no bipartisanship in a meaningful sense.

The extended program, the failure to continue it, has had a major impact on the lives of hundreds of thousands of families in the United States of America. I salute the gentleman from Maryland (Mr. CARDIN) for his tireless efforts over these months to try to get the Republicans to work with us on this. The highest number of people have exhausted all of their benefits on record in this country. I got this figure, and I want everybody to understand it, the number who have exhausted their benefits without finding work since December of last year, 1.7 million people.

My plea is, if we are going to be bipartisan on SUTA, and it is good that we are going to do so and, I hope, pass this overwhelmingly, I urge that the majority here take another look and think about some bipartisanship, about the lives of millions of people in this country who are unemployed through no fault of their own and cannot find a job.

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

I would like to point out to the gentleman from Michigan, Congress provided extended unemployment benefits for 2 years in the wake of the 2001 recession and terrorist attacks. We also provided record Federal funds for States to assist the unemployed which included $1.1 billion to 330,000 workers in the gentleman from Michigan's own State.

I would like to thank my colleagues for joining me here on the floor today to discuss this important bipartisan legislation. I urge all of my colleagues to support the SUTA Dumping Prevention Act to stop fraud and abuse and make our unemployment compensation system stronger and fairer to all. This is good bipartisan legislation. Let us pass it today.

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

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

Mr. Speaker, as I indicated earlier, this is an important bill. This is a bill that will save millions of dollars for our unemployment trust accounts at the State level and will work to the advantage of workers and businesses that are playing according to the rules so that they pay their fair rates into the unemployment trust accounts. This is important legislation, it is bipartisan legislation, and it is legislation I hope my colleagues will all support.

I do, though, want to underscore the point that the gentleman from Michigan made, and that is there are other issues in regard to the unemployment insurance funds that we should be dealing with. I would hope that we could use this model of working together to deal with the extension of unemployment benefits. Let me just remind my colleagues that we have record amounts of people who have exhausted their State unemployment benefits without finding employment, the highest in the history of keeping these records. Yet, in this downturn in our economy, we provided Federal unemployment benefits for one of the shortest times and for the number of shortest weeks in recent times when we have had problems with our economy. That is wrong. We should have done better. I hope that we will do better.

Secondly, let me point out there are other issues in regard to the unemployment accounts that we need to take a look at. The Department of Labor 3 years ago suggested that 80,000 workers may be denied unemployment benefits every year because they are misclassified as independent contractors. That is another issue that I would hope that we could look at in order to properly preserve these funds. And then let me also suggest that several years ago the stakeholders in our unemployment compensation system came together with certain recommendations that dealt with the tax, that dealt with part-time workers, that dealt with using the most recent earnings quarters. We have not yet acted on those recommendations which could again provide meaningful benefits to people who are entitled to it, who pay into the trust accounts and are being denied benefits today because of the Federal rules.

I would urge my colleagues to support this legislation, but to understand we have a lot more work that needs to be done in regard to our unemployment compensation system, including the fact that we inappropriately failed to extend benefits to unemployed workers during this economic downturn.

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

Mr. HERGER. Mr. Speaker, I yield myself the balance of my time. Just in response to my good friend from Maryland, thanks to the Republican tax cuts, the economy is strong and getting stronger. The economy recently grew faster than any time in the past 20 years. In the past 4 months, 1 million new jobs were created. The unemployment rate dropped in the last year from 6.3 percent to 5.6 percent. Today's unemployment rate is lower than the average during the 1970s, the 1980s, and the 1990s. Instead of engaging in partisan rhetoric, we should focus on the bipartisan bill before us which will strengthen the unemployment compensation system and make it fairer to all.

In closing, Mr. Speaker, I would like to read from a fax that I just received from the Office of the President of the United States. It is a Statement of Administration Policy in which it states: ''The administration strongly supports House passage of H.R. 3463, the SUTA Dumping Prevention Act, which would strengthen the financial integrity of State unemployment insurance (UI) programs. The bill would support the President's management agenda by saving hundreds of millions of dollars in fraudulent UI benefit payments and reduce tax avoidance by employers. The administration urges Congress to act on these commonsense reforms to promote fairness and reduce erroneous payments.''

Mr. Speaker, I urge all my colleagues to support this legislation.

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

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the bill, H.R. 3463, as amended.

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

A motion to reconsider was laid on the table.

## URGING THE PRESIDENT TO RESOLVE THE DISPARATE TREATMENT OF TAXES PROVIDED BY THE WORLD TRADE ORGANIZATION

Mr. ENGLISH. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 705) urging the President to resolve the disparate treatment of direct and indirect taxes presently provided by the World Trade Organization.

The Clerk read as follows:

H. RES. 705

Whereas the World Trade Organization does not permit direct taxes, such as the corporate income tax, to be rebated or reduced on exports;

Whereas indirect taxes, such as a value added tax, can be and are rebated on exports in other countries;

Whereas the distinction by the World Trade Organization between direct and indirect taxation is arbitrary and may induce economic distortions among nations with disparate tax systems; and

Whereas United States firms pay a high corporate tax rate on their export income and many foreign nations are allowed to rebate their value added taxes, thereby giving exporters in nations imposing value added taxes a competitive advantage over American workers: Now, therefore, be it

*Resolved*, That the President—

(1) within 120 days after the convening of the 109th Congress, and annually thereafter, should report to Congress on progress in pursuing multilateral and bilateral trade negotiations to eliminate the barriers described in section 2102(b)(15) of the Trade Act of 2002; and

(2) within 120 days after convening the 109th Congress, should report to Congress on—

(A) proposed alternatives to the disparate treatment of direct and indirect taxes presently provided by the World Trade Organization; and

(B) other proposals for redressing the tax disadvantage to United States businesses and workers, either by changes to the United States corporate income tax or by the adoption of an alternative, including—

(i) assessing the impact of corporate tax rates,

(ii) a system based on the principal of territoriality, and

(iii) a border adjustment for exports such as is already allowed by the World Trade Organization for indirect taxes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. ENGLISH) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. ENGLISH).

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

I am pleased to bring House Resolution 705 before the House today. It was introduced last week and it is being brought forward with considerable urgency because, Mr. Speaker, while this may not be the first time that we have discussed the issue of competitive trade disadvantage on the floor of the House that U.S. companies are facing, this may be the time that we are most clearly focusing on the contribution to that problem created by the American tax system.

The fact that our trade deficit is more than $500 billion demonstrates that the economic engine of American exports has experienced a slowdown. In order for us to revive our economy and to have long-term growth, the substantial trade imbalance that we now are experiencing, 5 percent of our economy, representing our trade deficit, has to be corrected.

□ 1200

Mr. Speaker, Congress and the administration need to push our trading partners to adjust the rules to level the playing field for American workers and American companies; and today's resolution helps do that by focusing on the disadvantage actually built into the

World Trade Organization rules, a disadvantage imposed upon our Tax Code, allowing our competitors what amounts to a $120 billion advantage over American companies.

For the past 30 years, the WTO has said that, while the EU members and other trading partners can and do exempt from tax their exports to the U.S., we must fully tax our exports to them. As our manufacturers and other critical industries begin to recover from the recession, it is imperative that we address this inequity. Otherwise, we risk undermining one of the key drivers of economic growth, our export sector, and we also put at risk those companies that are competing within our domestic market by fostering upon them a significant competitive disadvantage.

Right now, WTO rules recognize the U.S. corporate income tax to be a so-called direct tax. Under the WTO rules, so-called ''indirect taxes,'' value-added tax or retail sales tax or any other consumption-type tax, can be rebated on exports going out from the home country and imposed on imports coming in from foreign countries, but such adjustments cannot be made for direct taxes when goods and services cross international borders.

This is a distinction that has no grounding in economic reality and simply puts us at a competitive disadvantage. It is a crucial inequity for U.S. taxpayers and producers. Confronting it head on will go a long way to boost American competitiveness in the global market. That is why the resolution before us declares that this distinction is arbitrary and it results in a competitive disadvantage for businesses and works with a border-adjustable system, such as all value-added tax systems.

Looking to the future, this resolution should serve as a roadmap for reforming our international tax rules to allow U.S. products to compete in the global marketplace. This should be done in a way that exports American goods and services, not American jobs.

The resolution asks the President to report to Congress on two matters within 120 days of the convening of the 109th Congress. As required by the Trade Act of 2002, the United States Trade Representative is charged with considering how to eliminate trade barriers put up by the U.S.'s direct tax system in pursuing trade negotiations. Thus, first, the resolution asks for the President to provide a progress report on these barriers and how they can be eliminated. Second, it resolves that the President should report on proposed alternatives to the disparate treatment of the direct/indirect distinction as well as domestic proposals redressing the taxes disadvantage to the U.S.

Under the resolution, the President is asked to consider the impact of reducing the corporate rate, of implementing a territorial tax system, as well as the impact of a border-adjustable system as already allowed under the WTO rules. A comprehensive report on the issues would be an enormous help to the Congress and to any administration in putting into bold relief the improvements needed to international tax rules as well as our tax system as it stacks up against the systems of the rest of the world.

The reason we must look at this issue more deeply is because it impacts on our economy in such a fundamental way. While we are certainly in a period of robust economic recovery, there is more we can do to sustain long-term growth. As evidenced by the $550 billion trade deficit I referenced earlier, we have become a Nation of importers. We need once again become a Nation of exporters; and as a Nation of exporters, we would see a thriving job market and a thriving manufacturing sector.

In the absence of some kind of border tax adjustments for exports of American-made goods to correspond to the export rebates under VAT systems, there will continue to be a disincentive to produce goods in the United States. In effect, our tax system is creating all of the incentives to send our good-paying jobs offshore. This must be corrected, and this resolution is a step in the right direction.

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

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

Mr. Speaker, I rise in support of this resolution. It cannot do any harm. But I am not at all sure how much good it can possibly do.

I want to review very briefly what has happened with this issue over the years. We had a system in place. It was ruled illegal under GATT. We then decided we would replace it with what became known as FSC, a famous term now. That resulted from a series of negotiations or discussions with the Europeans, and we thought everybody understood that, that new system that we had incorporated would go without challenge. And it did so for a number of years. Then the European Union decided to challenge our FSC system, I think contrary to the mutual understanding that we had.

I had always believed, and there is some evidence to support, that the reason they did so was really to gain leverage on other issues. But, be that as it may, the FSC system, as we all know, was ruled contrary to the rules of the WTO, and then they authorized sanctions, and those are now in effect.

When the WTO ruling came up, it was the feeling of many of us, actually, before that, that the best answer to this was to have negotiations within the WTO. And we urged the USTR Rep, our Ambassador, to try to resolve this through WTO negotiations rather than the litigation that occurred. I am not sure that effort ever was taken very seriously, and the WTO ruling and the sanctions did occur.

We also urged the USTR on several occasions, as I remember it, to try to put forth a proposal for discussion in the Doha Round that would resolve this issue, and there seemed to be some resistance to this. Eventually, the U.S. Government did table a provision, a proposal, within the WTO. As far as I have read, it has not been very vigorously pursued, and it is essentially, as I understand, if not dormant, not very much on the front burner.

So here we are. I think there has been a failure of sufficient aggressiveness by the USTR over these years to really try to adequately protect the FSC system. Now it said let us have a report. Let us have a report with a mandated time for submission. And I guess, as I said at the beginning, that cannot do any harm and maybe will do a bit of good.

However, I want it to be clear that in supporting this resolution that we are not giving our imprimatur to any particular alternative that is named in this resolution. The assessment of the impact of corporate tax rates, I am all in favor of that. I do not want any implication as to what we might do. A system based on the principle of territoriality, the administration has had over 3 years to propose such a system. It is very controversial, and they never have formally come up with this, although there have been hints of this. And a border adjustment for exports such as already allowed by the WTO for indirect taxes, I think that is worthy of study.

So, in a word, I think support of this is okay. I think, though, what we are going to need in the days and years ahead is not simply reports but some real action.

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

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

First of all, I want to thank the gentleman for his statement because I can associate myself honestly with a good bit of the analysis that he has provided, and I also want to congratulate the gentleman because I know that he understands to an extent that many people who have not debated trade policy do understand that one of the reasons why we are in a competitive disadvantage is the design of our tax system, and I quite agree with him.

What we are putting forward in this resolution is not an endorsement of a particular tax system. What we are doing is putting the WTO on record that we want to change the standard, that we are going to insist on changing the standard. We are also putting the WTO on record that we are determined to make our tax system internationally competitive once more.

Through all of the debates on our trade deficit and the problems that we have had in the current international trading system, too little of the focus has been put on the disadvantages that we impose on ourselves, on our workers and our producers, because of the design and the level of American taxes. I will in my closing remarks give some specific examples.

But I again want to congratulate the gentleman for getting the gist of what

we are doing and supporting it and giving it a strong bipartisan push, because I think it is important for our trading partners in the WTO to see that this resolution is coming out of the House with strong support.

This is, in my view, an extremely strong resolution. This is a strong statement of policy. And I think that, although the gentleman makes I think a credible point, that there has been a need for stronger leadership on this point. It has not been specifically this administration but actually a series of administrations that have not been willing to take on this very difficult challenge directly. We need fundamental international tax reform if we are going to remain competitive.

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

Mr. LEVIN. Mr. Speaker, I yield myself such time as I may consume. I will close briefly.

This is the third bill in a row where there has been talk again about bipartisanship, and I suppose that is supposed to be the mantra of the day. As I said earlier on those two bills, the problem in this institution has been bipartisanship if it suited the majority and they felt we would agree with their proposal. But when it comes to issues where there is some legitimate disagreement or different points of view, that bipartisanship does not prevail.

Mr. Speaker, on this issue there was a bipartisan effort to address the FSC issue. The gentleman from Illinois (Mr. CRANE), who is on the floor; the gentleman from Illinois (Mr. MANZULLO); the gentleman from New York Mr. RANGEL; and I had a bipartisan proposal. And here we are many, many months later. All that this House has done is to pass a bill that really was not a bipartisan bill, and many of us had many objections to it. So there we had a wonderful chance to be bipartisan to address a problem in our tax structure and to do it to try to help manufacturing in this country.

□ 1215

Instead, that opportunity was squandered; and here we are many, many months later without a bill that will replace FSC.

So in a word, I just want to say words of bipartisanship are fine. Concrete efforts to achieve it are really what is necessary, and this resolution is not going to have much impact unless we try to rebuild the bipartisan basis for trade policy that has been undermined these last 3 years.

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

Mr. ENGLISH. Mr. Speaker, it is now a great privilege to yield 2 minutes to the distinguished gentlewoman from Connecticut (Mrs. JOHNSON), a strong advocate of fair trade for American workers.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding me time, and I thank the gentleman for bringing this resolution to the House floor.

Direct and indirect subsidies are an extreme problem in creating not only a free trading community across the world but a fair trading community. And while we have struggled mightily to comply with the World Trade Organization's requirement that we repeal a good and significant piece of the tax law governing American companies' earnings abroad, we have found that very difficult to do because there are so many ways in which our competitors do help support their companies and effectively reduce their companies' costs in the world trading community through their tax structures.

So while this resolution focuses on tax issues between the United States of America and particularly the European Union in a way that I think is very productive and needed to set the stage for the next round of reform, I also want to mention just a few of the kinds of subsidies that the Europeans particularly are using and that for some reason are not being attacked by either our Trade Representative or seen as a problem under the World Trading Organization.

If you listen to the Europeans, they directly set out to increase their market share of the aerospace industry. They have done so by buying themselves a more competitive position. There are many, many little things they do that are together, powerful. For example, they provide very generous loans to their aerospace producers, that only have to be repaid as planes were sold; and if the right number of planes were not sold, then, of course, the loan was never repaid, and it was effectively a grant, which is illegal under the GATT arrangements.

So this effort to look at both direct and indirect subsidies and the complexity of the tax subsidies different parts of the world are providing to their manufacturers in a very competitive global economy is something I commend, and I thank the gentleman for his leadership.

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

Mr. Speaker, I will just say something briefly. Look, I am all in favor of this study, but I do not want to make this unduly complicated. We had a chance going back many, many months to pass some legislation here that would address the specific problem facing us because of the WTO decision on FSC. We had the concrete opportunity to do something very specific on a bipartisan basis. That never was given a really fair chance on the floor of this House. I do not think that this resolution should mask the fact that here we are so many, many months later and that issue is not resolved.

We have an obligation not only to ask for studies, but to act, and this institution has not acted. The President had a chance very early on to come out in support of the bill that the four of us introduced that would have resolved the FSC problem within WTO rules and would have assisted manufacturing in the United States of America. That opportunity was lost, and we are just now in the quagmire of a bill that does not cost $4 billion a year, but has a price tag of, what, $150 billion over the time period.

So, let us study. Let us also act.

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

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

Mr. Speaker, let me say that I agree with the gentleman that there is a great need for bipartisanship right now in our trade policy if, in fact, we are going to reverse the tide and put American companies and American workers on a competitive level playing field that will allow us to build the 21st-century economy we need to create good-paying jobs for young people.

That is something that should not be a partisan issue. That is something that should unite us, because many of its components cut across philosophical lines.

As we will see today in some of the later trade votes, there is a great deal of bipartisanship still in the approach to trade policy. The gentleman is raising an important point that perhaps there should be more bipartisanship. But the fact is, the fact that we have had genuine philosophical disagreements on the FSC bill should not mask the fact that this resolution is enormously significant for American workers and for American companies.

I would like to demonstrate to the American public how dramatic an impact this is. I come from Erie County, Pennsylvania; and we make things for a living. We have the biggest concentration of manufacturing jobs still in the State. Much of what we make is actually for export. As a result of that, any small competitive disadvantage puts our workers and our companies at a significant disadvantage in the global marketplace. We cannot be dealing ourselves these sorts of large, substantial disadvantages.

Let us understand exactly what kind of disadvantage is being dealt to our producers as a result of a trading system which is not adjustable. This is a study that was done by the U.S. Council For International Business. It demonstrates on balance the comparative disadvantage of American products, both in our market and in foreign markets, as a result of not having a border-adjustable tax system.

In the United States, because in the U.S. we have the price of our tax system built into products, a product that has that price in it may, for argument's sake, cost $100. The same product, if it is produced to cost $100 in China, because there is a rebatable VAT tax, comes into our market costing only $88.89, plus the cost of transportation. All things being equal, if it is the same price there and the same price here, we are at a significant competitive disadvantage just because of the taxes.

At the same time, a product coming in from Germany that would cost $100

in Germany comes into the United States without the VAT included, without the price of their tax system included, lands in the United States, and it amounts to $86.21, competing with the product in the United States that costs $100. That is a significant wedge when it comes to manufactured products, where small price differences and small profit margins are what govern.

But what happens if we try to export from the United States to Germany? A product that costs $100 in the United States and $100 in Germany goes out of the United States with the price of our tax system built in, and then has imposed on it that additional VAT in Germany. So it costs $116 in Germany, competing with the same product that costs $100 in Germany. In that respect, Germany has a big advantage in competing with American products that they import. Their domestic producers have, in effect, a tax subsidy.

Look at what happens if we try to sell the same product in Germany and compete with the same product coming in from China. We send it in, it costs $116, but the Chinese export it to Germany, and it only costs $100.87. Why is it? It is because in their market, our pricing of our product has to include not only the price of our tax system, but theirs. It is double taxation.

When their product comes into our market, our product still carries the price of our tax system, but theirs has been rebated away. So, in effect, it is a tax subsidy, a standing tax subsidy that double taxes our products in foreign markets and frees imports from carrying their fair share of the tax burden. That is not fair. That is a tax differential that we can no longer afford to look the other way at.

This has been a disadvantage that we dealt ourselves back in the 1940s, and it has taken us this long. It is not this administration; it has taken us this long to come head to head with this problem.

The time has come for us to put the World Trade Organization on notice that we are going to insist on tax fairness, that we are going to insist on a level playing field. And that is not the only thing we need to do. There is no single silver bullet in leveling the playing field for fair trade, but this is one thing that has to happen. This needs to be the beginning of a much broader trade agenda that allows us to level the playing field, to insist on fairness, and to insist on apples-to-apples competition if we are going to have a strong international trading system.

I urge my colleagues, in the bipartisan spirit that my colleague raised, to support the resolution, to support this legislation, to put America on record as moving forward in this area and insisting on a change in terms of trade.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today in support of the resolution by Mr. ENGLISH that would direct the President to report to Congress on the progress he is making at the WTO to ensure other nations do not dictate the American tax system.

We have had a long debate over the repeal of the FSC-ETI tax rules because the WTO determined that tax system to be an "illegal export subsidy."

I disagree with this characterization and have worked hard to find an acceptable alternative tax system.

In the trade act of 2002 we directed the President to begin these discussions and I want to see some results soon or at least, as this resolution calls for, to hear a report on the status of those efforts.

The "ways and means" of taxing Americans is primarily within the jurisdiction of this body of Congress and should not be forced on us by a few foreign bureaucrats based in Brussels.

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

The SPEAKER pro tempore (Mr. PUTNAM). The question is on the motion offered by the gentleman from Pennsylvania (Mr. ENGLISH) that the House suspend the rules and agree to the resolution, H. Res. 705.

The question was taken.

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

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

The yeas and nays were ordered.

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

## GENERAL LEAVE

Mr. ENGLISH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 705.

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

There was no objection.

## CUSTOMS BORDER SECURITY AND TRADE AGENCIES AUTHORIZATION ACT OF 2004

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4418) to authorize appropriations for fiscal years 2005 and 2006 for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security, for the Office of the United States Trade Representative, for the United States International Trade Commission, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4418

*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 ''Customs Border Security and Trade Agencies Authorization Act of 2004''.*

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

*Sec. 1. Short title; table of contents.*
*TITLE I—BUREAU OF CUSTOMS AND BORDER PROTECTION AND BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT*
*Subtitle A—Authorization of appropriations; related provisions*
*Sec. 101. Authorization of appropriations.*
*Sec. 102. Establishment and implementation of cost accounting system; reports.*
*Sec. 103. Study and report relating to customs user fees.*
*Sec. 104. Report relating to One Face at the Border Initiative.*
*Subtitle B—Technical amendments relating to entry and protest*
*Sec. 111. Entry of merchandise.*
*Sec. 112. Limitation on liquidations.*
*Sec. 113. Protests.*
*Sec. 114. Review of protests.*
*Sec. 115. Refunds and errors.*
*Sec. 116. Definitions and miscellaneous provisions.*
*Sec. 117. Voluntary reliquidations.*
*Sec. 118. Effective date.*
*Subtitle C—Miscellaneous provisions*
*Sec. 121. Designation of San Antonio International Airport for Customs processing of certain private aircraft arriving in the United States.*
*Sec. 122. Authority for the establishment of Integrated Border Inspection Areas at the United States-Canada border.*
*Sec. 123. Designation of foreign law enforcement officers.*
*Sec. 124. Customs services.*
*Sec. 125. Sense of Congress on interpretation of textile and apparel provisions.*
*Sec. 126. Technical amendments.*
*TITLE II—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE*
*Sec. 201. Authorization of appropriations.*
*TITLE III—UNITED STATES INTERNATIONAL TRADE COMMISSION*
*Sec. 301. Authorization of appropriations.*

***TITLE I—BUREAU OF CUSTOMS AND BORDER PROTECTION AND BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT***

***Subtitle A—Authorization of Appropriations; Related Provisions***

***SEC. 101. AUTHORIZATION OF APPROPRIATIONS.***

*(a) IN GENERAL.—Subsection (a) of section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended—*

*(1) in paragraph (1), to read as follows:*

*''(1) For the fiscal year beginning October 1, 2004, and each fiscal year thereafter, there are authorized to be appropriated to the Department of Homeland Security for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement only such sums as may hereafter be authorized by law.'';*

*(2) by striking paragraph (2);*

*(3) by redesignating paragraph (3) as paragraph (2); and*

*(4) in paragraph (2) (as redesignated)—*

*(A) by inserting ''and the Assistant Secretary for United States Immigration and Customs Enforcement, respectively,'' after ''Commissioner of Customs''; and*

*(B) by striking ''Customs Service'' and inserting ''Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement''.*

*(b) SALARIES AND EXPENSES.—Subsection (b) of such section is amended to read as follows:*

*''(b) AUTHORIZATION OF APPROPRIATIONS.—*

*''(1) BUREAU OF CUSTOMS AND BORDER PROTECTION.—*

''(A) There are authorized to be appropriated for the salaries and expenses of the Bureau of Customs and Border Protection not to exceed the following:

''(i) $6,203,000,000 for fiscal year 2005.

''(ii) $6,469,729,000 for fiscal year 2006.

''(B)(i) The monies authorized to be appropriated under subparagraph (A) with respect to customs revenue functions for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Bureau of Customs and Border Protection that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)), shall be appropriated from the Customs User Fee Account.

''(ii) In clause (i), the term 'customs revenue function' means the following:

''(I) Assessing and collecting customs duties (including antidumping and countervailing duties and duties imposed under safeguard provisions), excise taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for the purposes of such assessment.

''(II) Processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties.

''(III) Detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States.

''(IV) Enforcing section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks.

''(V) Collecting accurate import data for compilation of international trade statistics.

''(VI) Enforcing reciprocal trade agreements.

''(VII) Functions performed by the following personnel, and associated support staff, of the United States Customs Service prior to the establishment of the Bureau of Customs and Border Protection: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialists, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, and Financial System Specialists.

''(VIII) Functions performed by the following offices, with respect to any function described in any of subclauses (I) through (VII), and associated support staff, of the United States Customs Service prior to the establishment of the Bureau of Customs and Border Protection: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.

''(2) BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT.—There are authorized to be appropriated for the salaries and expenses of the Bureau of Immigration and Customs Enforcement not to exceed the following:

''(A) $4,011,000,000 for fiscal year 2005.

''(B) $4,335,891,000 for fiscal year 2006.''.

**SEC. 102. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.**

Section 334 of the Customs and Border Security Act of 2002 (19 U.S.C. 2082 note) is amended to read as follows:

**''SEC. 334. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.**

''(a) ESTABLISHMENT AND IMPLEMENTATION; CUSTOMS AND BORDER PROTECTION.—

''(1) IN GENERAL.—Not later than September 30, 2005, the Commissioner of Customs shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system—

''(A) for expenses incurred in both commercial and noncommercial operations of the Bureau of Customs and Border Protection of the Department of Homeland Security, which system should specifically identify and distinguish expenses incurred in commercial operations and expenses incurred in noncommercial operations; and

''(B) for expenses incurred both in administering and enforcing the customs laws of the United States and the Federal immigration laws, which system should specifically identify and distinguish expenses incurred in administering and enforcing the customs laws of the United States and the expenses incurred in administering and enforcing the Federal immigration laws.

''(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Bureau of Customs and Border Protection, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of expenses.

''(b) ESTABLISHMENT AND IMPLEMENTATION; IMMIGRATION AND CUSTOMS ENFORCEMENT.—

''(1) IN GENERAL.—Not later than September 30, 2005, the Assistant Secretary for United States Immigration and Customs Enforcement shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system—

''(A) for expenses incurred in both commercial and noncommercial operations of the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security, which system should specifically identify and distinguish expenses incurred in commercial operations and expenses incurred in noncommercial operations;

''(B) for expenses incurred both in administering and enforcing the customs laws of the United States and the Federal immigration laws, which system should specifically identify and distinguish expenses incurred in administering and enforcing the customs laws of the United States and the expenses incurred in administering and enforcing the Federal immigration laws.

''(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the amount of time spent on the operation by personnel of the Bureau of Immigration and Customs Enforcement, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of expenses.

''(c) REPORTS.—

''(1) DEVELOPMENT OF THE COST ACCOUNTING SYSTEMS.—Beginning on the date of the enactment of the Customs Border Security and Trade Agencies Authorization Act of 2004 and ending on the date on which the cost accounting systems described in subsections (a) and (b) are fully implemented, the Commissioner of Customs and the Assistant Secretary for United States Immigration and Customs Enforcement, respectively, shall prepare and submit to Congress on a quarterly basis a report on the progress of implementing the cost accounting systems pursuant to subsections (a) and (b).

''(2) ANNUAL REPORTS.—Beginning one year after the date on which the cost accounting systems described in subsections (a) and (b) are fully implemented, the Commissioner of Customs and the Assistant Secretary for United States Immigration and Customs Enforcement, respectively, shall prepare and submit to Congress on an annual basis a report itemizing the expenses identified in subsections (a) and (b).

''(3) OFFICE OF THE INSPECTOR GENERAL.—Not later than March 31, 2006, the Inspector General of the Department of Homeland Security shall prepare and submit to Congress a report analyzing the level of compliance with this section and detailing any additional steps that should be taken to improve compliance with this section.''.

**SEC. 103. STUDY AND REPORT RELATING TO CUSTOMS USER FEES.**

(a) STUDY.—Beginning 180 days after the date on which the cost accounting systems described in section 334 of the Customs and Border Security Act of 2002 (as amended by section 102 of this Act) are fully implemented, the Comptroller General shall conduct a study on the extent to which the amount of each customs user fee imposed under section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) approximates the cost of services provided by the Bureau of Customs and Border Protection of the Department of Homeland Security relating to the fee so imposed. The study shall include an analysis of the use of each such customs user fee by the Bureau of Customs and Border Protection.

(b) REPORT.—Not later than one year after the date on which the cost accounting systems described in section 334 of the Customs and Border Security Act of 2002 are fully implemented, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report in classified form containing—

(1) the results of the study conducted under subsection (a); and

(2) recommendations for the appropriate amount of the customs user fees if such results indicate that the fees are not commensurate with the level of services provided by the Bureau of Customs and Border Protection.

**SEC. 104. REPORT RELATING TO ONE FACE AT THE BORDER INITIATIVE.**

Not later than September 30 of each of the calendar years 2005 and 2006, the Commissioner of Customs shall prepare and submit to Congress a report—

(1) analyzing the effectiveness of the One Face at the Border Initiative at enhancing security and facilitating trade;

(2) providing a breakdown of the number of personnel of the Bureau of Customs and Border Protection that were personnel of the United States Customs Service prior to the establishment of the Department of Homeland Security, that were personnel of the Immigration and Naturalization Service prior to the establishment of the Department of Homeland Security, and that were hired after the establishment of the Department of Homeland Security;

(3) describing the training time provided to each employee on an annual basis for the various training components of the One Face at the Border Initiative; and

(4) outlining the steps taken by the Bureau of Customs and Border Protection to ensure that expertise is retained with respect to customs, immigration, and agriculture inspection functions under the One Face at the Border Initiative.

***Subtitle B—Technical Amendments Relating to Entry and Protest***

**SEC. 111. ENTRY OF MERCHANDISE.**

(a) IN GENERAL.—Subsection (a) of section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) is amended—

(1) in paragraph (1)(B), by inserting after ''entry'' the following: '', or substitute 1 or more reconfigured entries on an import activity summary statement,''; and

(2) in paragraph (2)(A)—

(A) in the second sentence, by inserting after ''statements,'' the following: ''and permit the filing of reconfigured entries,''; and

(B) by adding at the end the following: ''Entries filed under paragraph (1)(A) shall not be liquidated if covered by an import activity summary statement, but instead each reconfigured

entry in the import activity summary statement shall be subject to liquidation or reliquidation pursuant to section 500, 501, or 504.''.

(b) RECONCILIATION.—Subsection (b)(1) of such section is amended in the fourth sentence by striking ''15 months'' and inserting ''21 months''.

**SEC. 112. LIMITATION ON LIQUIDATIONS.**

Section 504 of the Tariff Act of 1930 (19 U.S.C. 1504) is amended—

(1) in subsection (a)—

(A) by striking ''or'' at the end of paragraph (3);

(B) in paragraph (4), by striking ''filed;'' and inserting ''filed, whichever is earlier; or''; and

(C) by inserting after paragraph (4) the following:

''(5) if a reconfigured entry is filed under an import activity summary statement, the date the import activity summary statement is filed or should have been filed, whichever is earlier;''; and

(2) by striking ''at the time of entry'' each place it appears.

**SEC. 113. PROTESTS.**

Section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''(relating to refunds and errors) of this Act'' and inserting ''(relating to refunds), any clerical error, mistake of fact, or other inadvertence, whether or not resulting from or contained in an electronic transmission, adverse to the importer, in any entry, liquidation, or reliquidation, and'';

(B) in paragraph (5), by inserting '', including the liquidation of an entry, pursuant to either section 500 or section 504'' after ''thereof''; and

(C) in paragraph (7), by striking ''(c) or''; and

(2) in subsection (c)—

(A) in paragraph (1), in the sixth sentence, by striking ''A protest may be amended,'' and inserting ''Unless a request for accelerated disposition is filed under section 515(b), a protest may be amended,''; and

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking ''ninety days'' and inserting ''180 days'';

(ii) in subparagraph (A), by striking ''notice of'' and inserting ''date of''; and

(iii) in the second sentence, by striking ''90 days'' and inserting ''180 days''.

**SEC. 114. REVIEW OF PROTESTS.**

Section 515(b) of the Tariff Act of 1930 (19 U.S.C. 1515(b)) is amended in the first sentence by striking ''after ninety days'' and inserting ''concurrent with or''.

**SEC. 115. REFUNDS AND ERRORS.**

Section 520(c) of the Tariff Act of 1930 (19 U.S.C. 1520(c)) is repealed.

**SEC. 116. DEFINITIONS AND MISCELLANEOUS PROVISIONS.**

Section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) is amended by adding at the end the following:

''(t) RECONFIGURED ENTRY.—The term 'reconfigured entry' means an entry filed on an import activity summary statement which substitutes for all or part of 1 or more entries filed under section 484(a)(1)(A) or filed on a reconciliation entry that aggregates the entry elements to be reconciled under section 484(b) for purposes of liquidation, reliquidation, or protest.''.

**SEC. 117. VOLUNTARY RELIQUIDATIONS.**

Section 501 of the Tariff Act of 1930 (19 U.S.C. 1501) is amended in the first sentence by inserting ''or 504'' after ''section 500''.

**SEC. 118. EFFECTIVE DATE.**

The amendments made by this subtitle shall apply to merchandise entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

**Subtitle C—Miscellaneous Provisions**

**SEC. 121. DESIGNATION OF SAN ANTONIO INTERNATIONAL AIRPORT FOR CUSTOMS PROCESSING OF CERTAIN PRIVATE AIRCRAFT ARRIVING IN THE UNITED STATES.**

(a) IN GENERAL.—Section 1453(a) of the Tariff Suspension and Trade Act of 2000 is amended by striking ''2-year period'' and inserting ''6-year period''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as of November 9, 2002.

**SEC. 122. AUTHORITY FOR THE ESTABLISHMENT OF INTEGRATED BORDER INSPECTION AREAS AT THE UNITED STATES-CANADA BORDER.**

(a) FINDINGS.—Congress makes the following findings:

(1) The increased security and safety concerns that developed in the aftermath of the terrorist attacks in the United States on September 11, 2001, need to be addressed.

(2) One concern that has come to light is the vulnerability of the international bridges and tunnels along the United States borders.

(3) It is necessary to ensure that potentially dangerous vehicles are inspected prior to crossing these bridges and tunnels; however, currently these vehicles are not inspected until after they have crossed into the United States.

(4) Establishing Integrated Border Inspection Areas (IBIAs) would address these concerns by inspecting vehicles before they gained access to the infrastructure of international bridges and tunnels joining the United States and Canada.

(b) CREATION OF INTEGRATED BORDER INSPECTION AREAS.—

(1) IN GENERAL.—The Commissioner of the Customs Service, in consultation with the Canadian Customs and Revenue Agency (CCRA), shall seek to establish Integrated Border Inspection Areas (IBIAs), such as areas on either side of the United States-Canada border, in which United States Customs officers can inspect vehicles entering the United States from Canada before they enter the United States, or Canadian Customs officers can inspect vehicles entering Canada from the United States before they enter Canada. Such inspections may include, where appropriate, employment of reverse inspection techniques.

(2) ADDITIONAL REQUIREMENT.—The Commissioner of Customs, in consultation with the Administrator of the General Services Administration when appropriate, shall seek to carry out paragraph (1) in a manner that minimizes adverse impacts on the surrounding community.

(3) ELEMENTS OF THE PROGRAM.—Using the authority granted by this section and under section 629 of the Tariff Act of 1930, the Commissioner of Customs, in consultation with the Canadian Customs and Revenue Agency, shall seek to—

(A) locate Integrated Border Inspection Areas in areas with bridges or tunnels with high traffic volume, significant commercial activity, and that have experienced backups and delays since September 11, 2001;

(B) ensure that United States Customs officers stationed in any such IBIA on the Canadian side of the border are vested with the maximum authority to carry out their duties and enforce United States law;

(C) ensure that United States Customs officers stationed in any such IBIA on the Canadian side of the border shall possess the same immunity that they would possess if they were stationed in the United States; and

(D) encourage appropriate officials of the United States to enter into an agreement with Canada permitting Canadian Customs officers stationed in any such IBIA on the United States side of the border to enjoy such immunities as permitted in Canada.

**SEC. 123. DESIGNATION OF FOREIGN LAW ENFORCEMENT OFFICERS.**

(a) MISCELLANEOUS PROVISIONS.—Section 401(i) of the Tariff Act of 1930 (19 U.S.C. 1401(i)) is amended by inserting '', including foreign law enforcement officers,'' after ''or other person''.

(b) INSPECTIONS AND PRECLEARANCE IN FOREIGN COUNTRIES.—Section 629 of the Tariff Act of 1930 (19 U.S.C. 1629) is amended—

(1) in subsection (a), by inserting '', or subsequent to their exit from,'' after ''prior to their arrival in'';

(2) in subsection (c)—

(A) by inserting ''or exportation'' after ''relating to the importation''; and

(B) by inserting ''or exit'' after ''port of entry'';

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

''(e) STATIONING OF FOREIGN CUSTOMS AND AGRICULTURE INSPECTION OFFICERS IN THE UNITED STATES.—The Secretary of State, in coordination with the Secretary and the Secretary of Agriculture, may enter into agreements with any foreign country authorizing the stationing in the United States of customs and agriculture inspection officials of that country (if similar privileges are extended by that country to United States officials) for the purpose of insuring that persons and merchandise going directly to that country from the United States, or that have gone directly from that country to the United States, comply with the customs and other laws of that country governing the importation or exportation of merchandise. Any foreign customs or agriculture inspection official stationed in the United States under this subsection may exercise such functions, perform such duties, and enjoy such privileges and immunities as United States officials may be authorized to perform or are afforded in that foreign country by treaty, agreement, or law.''; and

(4) by adding at the end the following:

''(g) PRIVILEGES AND IMMUNITIES.—Any person designated to perform the duties of an officer of the Customs Service pursuant to section 401(i) of this Act shall be entitled to the same privileges and immunities as an officer of the Customs Service with respect to any actions taken by the designated person in the performance of such duties.''.

(c) CONFORMING AMENDMENT.—Section 127 of the Treasury Department Appropriations Act, 2003, is hereby repealed.

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, take effect on the date of the enactment of this Act.

**SEC. 124. CUSTOMS SERVICES.**

Section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)) is amended—

(1) by striking ''(1) Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than paragraph (2)),'' and inserting:

''(1) IN GENERAL.—

''(A) SCHEDULED FLIGHTS.—Notwithstanding section 451 of the Tariff Act of 1930 (19 U.S.C. 1451) or any other provision of law (other than subparagraph (B) and paragraph (2)),''; and

(2) by adding at the end the following:

''(B) CHARTER FLIGHTS.—If a charter air carrier (as defined in section 40102(13) of title 49, United States Code) specifically requests that customs border patrol services for passengers and their baggage be provided for a charter flight arriving after normal operating hours at a customs border patrol serviced airport and overtime funds for those services are not available, the appropriate customs border patrol officer may assign sufficient customs employees (if available) to perform any such services, which could lawfully be performed during regular hours of operation, and any overtime fees incurred in connection with such service shall be paid by the charter air carrier.''.

***SEC. 125. SENSE OF CONGRESS ON INTERPRETATION OF TEXTILE AND APPAREL PROVISIONS.***

*It is the sense of Congress that the Bureau of Customs and Border Protection of the Department of Homeland Security should interpret, implement, and enforce the provisions of section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721), section 204 of the Andean Trade Preference Act (19 U.S.C. 3203), and section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703), relating to preferential treatment of textile and apparel articles, broadly in order to expand trade by maximizing opportunities for imports of such articles from eligible beneficiary countries.*

***SEC. 126. TECHNICAL AMENDMENTS.***

*(a) TARIFF ACT OF 1930.—Section 505(a) of the Tariff Act of 1930 is amended—*

*(1) in the first sentence—*

*(A) by inserting ''referred to in this subsection'' after ''periodic payment''; and*

*(B) by striking ''10 working days'' and inserting ''12 working days''; and*

*(2) in the second sentence, by striking ''a participating'' and all that follows through the end of the sentence and inserting the following: ''the Secretary shall promulgate regulations, after testing the module, permitting a participating importer of record to deposit estimated duties and fees for entries of merchandise, other than merchandise entered for warehouse, transportation, or under bond, no later than the 15 working days following the month in which the merchandise is entered or released, whichever comes first.''.*

*(b) CUSTOMS USER FEES.—(1) Section 13031(b)(9)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)) is amended by striking ''less than $2,000'' and inserting ''$2,000 or less''.*

*(2) Section 13031(b)(9)(A)(ii) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(A)(ii)) is amended to read as follows:*

*''(ii) Notwithstanding subsection (e)(6) and subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility—*

*''(I) $.66 per individual airway bill or bill of lading; and*

*''(II) if the merchandise is formally entered, the fee provided for in subsection (a)(9), if applicable.''.*

*(3) Section 13031(b)(9)(B) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)(B)) is amended—*

*(A) by moving the margins for subparagraph (B) 4 ems to the left; and*

*(B) in clause (ii), by striking ''subparagraph (A)(ii)'' and inserting ''subparagraph (A)(ii) (I) or (II)''.*

*(4) Section 13031(f)(1)(B) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(1)(B)) is amended by moving the subparagraph 2 ems to the left.*

***TITLE II—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE***

***SEC. 201. AUTHORIZATION OF APPROPRIATIONS.***

*(a) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) IN GENERAL.—Section 141(g)(1)(A) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)(A)) is amended by striking clauses (i) and (ii) and inserting the following:*

*''(i) $39,552,000 for fiscal year 2005.*

*''(ii) $39,552,000 for fiscal year 2006.''.*

*(2) RULE OF CONSTRUCTION.—The amendment made by paragraph (1) shall not be construed to affect the availability of funds appropriated pursuant to section 141(g)(1)(A) of the Trade Act of 1974 before the date of the enactment of this Act.*

*(b) AUTHORIZATION OF APPROPRIATIONS FOR THE OFFICE OF THE GENERAL COUNSEL AND THE OFFICE OF MONITORING AND ENFORCEMENT.—There are authorized to be appropriated to the Office of the United States Trade Representative for the appointment of additional staff in the Office of the General Counsel and the Office of Monitoring and Enforcement—*

*(1) $2,000,000 for fiscal year 2005; and*

*(2) $2,000,000 for fiscal year 2006.*

***TITLE III—UNITED STATES INTERNATIONAL TRADE COMMISSION***

***SEC. 301. AUTHORIZATION OF APPROPRIATIONS.***

*(a) AUTHORIZATION OF APPROPRIATIONS.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)) is amended by striking clauses (i) and (ii) and inserting the following:*

*''(i) $61,700,000 for fiscal year 2005.*

*''(ii) $65,278,000 for fiscal year 2006.''.*

*(b) RULE OF CONSTRUCTION.—The amendment made by subsection (a) shall not be construed to affect the availability of funds appropriated pursuant to section 330(e)(2)(A) of the Tariff Act of 1930 before the date of the enactment of this Act.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from Michigan (Mr. LEVIN) each will control 20 minutes.

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

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

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

Mr. Speaker, I rise in strong support of H.R. 4418. I am particularly pleased by the strong bipartisan work that has been done on this legislation. The bill was introduced by the chairman of the Subcommittee on Trade, the gentleman from Illinois (Mr. CRANE), and its original cosponsors include the ranking member of the full committee, the gentleman from New York (Mr. RANGEL); the ranking member of the Subcommittee on Trade, the gentleman from Michigan (Mr. LEVIN); and on our side of the aisle, the gentleman from Florida (Mr. SHAW) and the gentleman from Minnesota (Mr. RAMSTAD).

□ 1230

The bill was reported unanimously out of the committee on a rollcall vote of 33 to 0.

Mr. Speaker, I rise in strong support of H.R. 4418, the Customs Border Security and Trade Agencies Authorization Act of 2004. I am particularly pleased by the strong bipartisan work that has been done on this legislation. The bill was introduced by Congressman CRANE, Chairman of the Subcommittee on Trade, and original cosponsors included Congressmen RANGEL, SHAW, LEVIN, and RAMSTAD. The bill was then reported unanimously out of the Committee on a vote of 33 yeas to 0 nays.

Our customs and trade agencies authorization bill is part of our two-year authorization process to provide guidance and exercise oversight of U.S. Customs and Border Protection (or CBP), U.S. Immigration and Customs Enforcement (or ICE), the Office of the United States Trade Representative (or USTR), and the U.S. International Trade Commission (or ITC).

This week the House will focus on trade legislation as a means to enhance our economic well-being, including legislation to implement the U.S.-Australia Free Trade Agreement. While free trade agreements bring obvious economic benefits, the provisions in the customs sections of this legislation are the nuts and bolts of trade facilitation. This legislation provides the critical resources that CBP and ICE need to safeguard our borders while still facilitating the flow of legitimate trade.

The legislation provides resources for USTR, which has done a tremendous job in recent years of negotiating trade agreements and enforcing the obligations in those agreements to ensure that our business, farmers, workers, and consumers reap the benefits of these agreements. This legislation will provide an additional $2 million in funding above the President's budget request for staff in the Office of the General Counsel and the Office of Monitoring and Enforcement to ensure that USTR can continue to perform its vital functions. This earmark will allow USTR to address a variety of needs that will best enable U.S. companies, farmers, and workers to benefit from the trade agreements to which the United States is party.

Finally, the bill ensures adequate resources for the ITC, which has provided valuable advice on the probable economic effects of U.S. trade agreements and other trade legislation considered by the Congress.

In conclusion, this legislation provides the resources and the administrative flexibility that allows legitimate trade to flow freely across our borders. I urge the support of my colleagues.

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

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN), a distinguished member of our committee.

Mr. CARDIN. Mr. Speaker, I thank the gentleman for yielding me this time and join our chairman in support of this legislation.

I do want to point out that it also provides for the authorization of our United States Trade Representative and gives our USTR some additional resources, $2 million of additional funding, in order to be able to more aggressively represent our interests, particularly in the World Trade Organization.

We have been involved in numerous litigations within the WTO, and we have found in the last couple of years that we have been on the losing side of some very important cases. I think the importance of this legislation to provide the additional resources is so that the USTR can more aggressively represent U.S. interests in the World Trade Organization on cases which are consistent, particularly with our antidumping and countervailing duty laws. We have found over and over again that we have not been successful in defending our rights under these domestic laws in the WTO. We also, of course, found on the tax issues we were unsuccessful.

So we are hopeful that these additional funds will, in fact, be used by the United States Trade Representative to fight for U.S. interests in the World Trade Organization that is consistent with our domestic law to prevent our market from being flooded by illegally subsidized products that we have seen over and over again, particularly in steel.

So, Mr. Speaker, I rise in support of this legislation, and I just wanted to point out to our membership the additional resources that are being made available, and certainly our intentions are that they are to be used by the USTR to defend the right of American producers and manufacturers, particularly when they are facing unfair competition from foreign markets.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, on May 20, 2004, I introduced legislation along with the gentleman from New York (Mr. RANGEL), the gentleman from Florida (Mr. SHAW), the gentleman from Michigan (Mr. LEVIN), and the gentleman from Minnesota (Mr. RAMSTAD) authorizing appropriations for fiscal year 2005 and 2006 for the Customs and Border Protection, or CBP; U.S. Immigration and Customs Enforcement, or ICE; the Office of the United States Trade Representative, or USTR; and the International Trade Commission, ITC.

This legislation is necessitated by the expiration at the end of this fiscal year of the existing authorization for the former U.S. Customs Service. It is also a part of our ongoing process of exercising oversight and focusing on the critical importance of the efficient flow of trade across our borders.

The Customs Service has a long and distinguished history. It was the first agency of the Federal Government to be created over 220 years ago to collect revenue and to ensure that imports flow smoothly across the border. Today, Customs collects more than $20 billion in revenue each year.

With international trade comprising nearly 25 percent of our gross domestic product, CBP's mission to move goods across the border in a smooth, efficient, and predictable manner is a vital part of our economic strength and viability.

In addition to this, over the years, Customs has taken on many other functions because of its unique border presence. Fighting against illegal drugs, transshiped t-shirts, and Rolex knock-offs are just a few of these other functions.

In the wake of the terrorist attacks on the United States, the role of Customs in guarding our borders against chemical, biological, and conventional weapons has become more prominent.

This legislation authorizes sufficient funding for CBP and ICE to satisfy all of their various responsibilities.

This legislation also authorizes appropriations for fiscal years 2005 and 2006 for the Office of the United States Trade Representative of $39.6 million per year. In order to ensure that we benefit from free and fair trade, it authorizes an additional $2 million per year for the appointment of additional staff in the Office of the General Counsel and the Office of Monitoring and Enforcement.

Mr. Speaker, I am pleased that this legislation passed the Committee on Ways and Means by a bipartisan 33 to nothing vote, and I look forward to its passage by the House today.

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

Mr. Speaker, this bill is on suspension today. There has been on each occasion on these trade bills references to bipartisanship, and I simply want to express my regret to the chairman that this bill was placed on suspension. I do not think that it is a useful way to proceed on a bill of this nature. I am not sure that it has been done traditionally on this bill.

I am going to support it.

But we did raise in the committee several amendments. They were discussed, they were voted on, they were voted down, but we should have had the opportunity to raise these issues, or at least try, with the Committee on Rules to obtain a rule that allowed us to bring up these amendments.

One was an amendment by the gentleman from Massachusetts (Mr. NEAL) that related to penalties from fines that were being levied against China, anti-dumping countervailing duty levies. We have a serious problem, and that is we have these orders, we have fines, but they are not being collected. The amount involved is over $100 million, perhaps as high as $130 million. What has been happening is, as the government has tried to implement the anti-dumping countervailing duties, was to allow people to post bonds instead of some amount of cash. These bonds, I guess in most cases, turned out to be worthless. So essentially, we are left holding an empty bag. And it is really our manufacturers who are left without redress, because under legislation passed by this Congress, there would be redress directly for the injured party.

Well, the gentleman from Massachusetts (Mr. NEAL) raised this issue; and, actually, I guess in full committee, there was a decision to postpone action on it, with the hope that there could be something worked out. But when it is put on suspension, it essentially snuffs out any chance for us to raise the issue through an amendment.

But, secondly, there is the issue of the additional $2 million for USTR. And the reason we had discussion within the committee and before that in the subcommittee was this: In our judgment, the judgment of many of us, there has not been vigorous enforcement of our laws. We pass trade laws, we enter into trade agreements, but they require, as the gentleman from Maryland (Mr. CARDIN) has pointed out, active, vigorous enforcement by the executive. And that has not been true. It has been lacking, though there has been a spurt these last 5 or 6 or 7 months.

So there was offered in the subcommittee, and then again in the committee, an amendment to be sure that part of the $2 million that we were adding to USTR in this authorization would be spent for enforcement. The $2 million, the way it is written in the bill, goes to the General Counsel and the Office of Monitoring and Enforcement. None of this has to go to the Office of Monitoring and Enforcement, the way it is written. That is true. None of it has to. All of it could go to the General Counsel, at least as I read it, or maybe $1 could go to the Office of Monitoring and Enforcement.

Anyway, we proposed an amendment to be sure that some of the funds would be used for various purposes of enforcement. That was called an earmark. I am not sure that is an appropriate term. Why money, extra money going to two offices is not an earmark, but including how they might spend it is one, I do not quite get that, especially in view of the fact that there has been such a need for the enforcement of our laws.

I referred earlier to China. We have a huge deficit with China, and enforcement has been a major problem. We need to do better, and what our amendment proposed was to be certain that some of the monies, and we did not specify for each of the purposes, but that some of the monies would be used for the purposes of enforcement. That was voted down.

Now the problem with putting this on suspension is that we do not even have a chance to go to the Committee on Rules and ask for a rule that would allow us to raise this amendment on the floor. There has been a lot of talk about bipartisanship here, and I admired the majority for sticking to a message and repeating it time and time again, but the test is not in the words but in the actions. And the test is whether you let us raise issues on the floor of the House if you disagree with our position so we can have a full airing of these issues and, if we want to, vote, and maybe even win.

We objected to this being placed on suspension, but here we are with the alternative of voting it down or passing it when it is for a purpose that is an important one.

I also understand that the gentleman from Washington (Mr. BAIRD) is going to raise an issue regarding the new provisions regarding boats that apply to fishing boats, and I think he will speak regarding that.

So in a word, I am going to vote for this. I hope my colleagues will vote for it. However, it is important, I think, that we realize that placing a bill on suspension of this nature does limit our ability to try to have a debate and action in a vote on important amendments, and I hope very much that this will not be repeated. One thing I can assure my colleagues of, if we take back the House, this bill will not be put on suspension.

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

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

Mr. Speaker, the House has a series of procedures which determine whether

or not a bill is a candidate to be placed on suspension. One of the first things that one would look at, obviously, is the way in which the bill was dealt with in committee. I said in my opening statement that this bill passed 33 to 0. One cannot get any more unanimous than that.

I would ask my friend, because he is my friend, the gentleman from Michigan (Mr. LEVIN), while he is recounting the amendments that were offered, which were presented, arguments examined, decision made by the committee, and it just so happens that each of the amendments were not accepted. They had every right at that time to vote against the measure. Not being able to completely divine the reason for why they do such things, but they came to the conclusion that the bill, notwithstanding not being amended, was perfectly acceptable.

I do, however, have to ask my colleague, when an argument is made in committee and absolutely and completely refuted, it does not lend itself to a continued positive working relationship to then come to the floor and repeat the same argument, which was absolutely refuted in committee, as though he had no knowledge that what he was saying was not accurate.

□ 1245

The gentleman said that the $2 billion the gentleman from Maryland was kind enough to indicate we all agreed would be appropriate could not go at all for enforcement. The language in the bill is ''and between general counsel and enforcement,'' not ''and/or.'' It is ''and.'' And the gentleman's argument that no money can go there is simply not accurate. It was not accurate when he made it in committee, and it was refuted. It is not accurate on the floor when he makes it.

And so after all is said and done with all of the concerns and all of the arguments which end with ''and we will support the bill,'' the only conclusion one can reasonably come to is that the problem is we are the majority and they are not.

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

Mr. LEVIN. Mr. Speaker, I yield as much time as he may consume to the gentleman from Washington (Mr. BAIRD), a very distinguished, active gentleman from Washington; and then I will respond to the gentleman from California (Mr. THOMAS) a bit later.

Mr. BAIRD. Mr. Speaker, I thank my friend and colleague for yielding me this time, and I understand that the chairman of the committee would be willing to engage in a brief colloquy.

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

Mr. BAIRD. I yield to the gentleman from California.

Mr. THOMAS. Yes, Mr. Speaker, I am happy to engage the gentleman in a colloquy.

Mr. BAIRD. I thank him for that, as this is an issue of great importance to fish processors and the economy of my region.

Mr. Speaker, my concern is that small fishing ships are now required to transmit electronically information about the contents of their cargo 24 hours before docking in a U.S. port. This requirement and several others are causing a great hardship for small, independently operated fishing vessels.

As a result, the vessels are docking in Canada and processing fish there, thereby costing jobs in an area where we greatly need those jobs.

As a result, Washington State is losing more jobs, and fish processing jobs; and I would ask and hope that we can work together to address this issue immediately.

Mr. THOMAS. Mr. Speaker, I thank the gentleman; and as the gentleman knows, this is an issue that was just presented to us now, and in trying to do some immediate research, we could not determine whether it is amenable to an administrative resolution or a legislative resolution; but certainly the chairman is willing to work with the gentleman from Washington, as our staffs confer, to try to address those concerns.

Mr. BAIRD. Mr. Speaker, I am very grateful to that, and there is some urgency to this, so I look forward to working with the gentleman from California (Mr. THOMAS) on this; and I thank him for his indulgence.

Mr. THOMAS. Mr. Speaker, and I thank the gentleman for his rapid response to a problem in his district.

Mr. Speaker, it is now my pleasure to yield as much time as he may consume to the gentleman from Minnesota (Mr. RAMSTAD), a cosponsor of the legislation.

Mr. RAMSTAD. Mr. Speaker, I rise today as a cosponsor and strong supporter of this important legislation. Today's passage of the Customs Border Security and Trade Agencies Authorization Act is absolutely vital because it authorizes funding for four agencies that play critical roles in formulating and implementing American trade policy:

The U.S. Trade Representative, the International Trade Commission, and the newly formed agencies of the U.S. Customs and Border Protection and the U.S. Immigration and Customs Enforcement.

I want to especially thank the gentleman from Illinois (Chairman CRANE) of our Committee on Ways and Means Subcommittee on Trade for including a provision I offered in the bill to allow, but not mandate, customs officials to work overtime if smaller air carriers arrive at an airport after normal customs hours.

This legislation is necessary because charter air carriers often use smaller feeder airports, providing needed relief to air traffic at larger international airports; and, unfortunately, this means that chartered carriers are often unfairly restricted in the hours in which they can land, as smaller airports do not have extended hours for customs officials like larger international airports.

Mr. Speaker, H.R. 4418 will change current law by allowing customs officials to work overtime, with the overtime costs paid for by the arriving carrier. This is good policy for the carrier, as they have more flexibility in their flight schedules. It is good policy for the taxpayer, as there is no additional cost to them. And it is good policy for customs employees, as they have the option to work overtime if they so desire.

Mr. Speaker, make no mistake, international trade is absolutely critical to our economy; and we must do all we can to open foreign markets and increase the efficiency of our ports. No issues are more important to the American people today than homeland security and economic security, and I am pleased this legislation helps improve both by securing our borders and improving the flow of goods across our borders.

I urge my colleagues to continue to support H.R. 4418, and I want to thank my colleagues on the other side of the aisle on the Committee on Ways and Means for their unanimous vote to approve this important legislation. And I hope that spirit of bipartisan pragmatism continues here in the House vote today.

Mr. LEVIN. Mr. Speaker, I yield myself such time as I may consume. I have made my points. I will not repeat them. In terms of a vote that is unanimous in committee, I hope that is not the precedent for putting bills on suspension, especially bills of major import. This relates to the Bureau of Customs and Border Protection, the Bureau of Customs Enforcement of the Department, and customs enforcement of the Department of Homeland Security, the office of USTR and for ITC.

So we did, I think, clearly say to the majority we did not want this bill on suspension, and it was placed on suspension anyway. I do not think that is a bipartisan way to proceed, and there has been use of much of the term ''bipartisanship'' here today, and I want to make it clear the test is not in rhetoric but in actual performance.

And let me just say a word to the gentleman from California (Mr. THOMAS), and I want to repeat this because I hope USTR gets the message about enforcement. I do not know if all the money went to General Counsel, whether it would be considered a violation of this language. I think maybe so, but maybe not; but as I said in my remarks, if they gave a dollar to the Office of Monitoring and Enforcement and the rest to General Counsel, I think it will meet the terms of this provision.

And the reason we have raised it is not to be picky or not to fly-speck, but because the issue of enforcement of our trade laws is a vital one. We have worked to pass trade laws. We worked to place some major provisions in the

China PNTR. We have worked to try to maintain our antidumping and countervailing duty laws. We have worked to have some strong trade laws; but if they are not vigorously enforced, it does not do much good.

And so we wanted to be sure the gentleman from Maryland (Mr. CARDIN) addressed this, and we raised it in committee. We wanted to make sure that if there were going to be adequate or additional funding, that some portion of it in a meaningful way would go for enforcement of our laws. And we named three areas in which we needed more vigorous enforcement. That is what this is all about. Those of us who favor expanded trade want to do so first of all so that the terms of trade are shaped so that there is widespread benefit; and, number two, we want to make sure that the laws that we support and help to shape are implemented, are enforced. And the record of this administration, in my judgment, has been unsatisfactory, to put it mildly.

And that is why we raised the issue, and that is why it would have been better to have this bill not on suspension, but in the normal course. That is what this is all about.

Mr. Speaker, I see that another gentleman is here to speak, but I will reserve the balance of my time, with the understanding I probably will not speak again if the gentleman from California (Mr. THOMAS) is ready to wrap up.

Mr. THOMAS. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. SOUDER).

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

Mr. SOUDER. Mr. Speaker, I want to thank the chairman for yielding me this time, and I have two comments I wanted to make in particular on this bill. I was particularly happy to see that the bill is requiring the commissioner of the Customs and Border Protection Agency to work to establish integrated border inspections areas on the U.S.-Canada border.

As we have worked through the last few years in homeland security and the narcotics areas, as well as with the U.S.-Canada Parliamentary Group, Canada is our most important trading partner. We have one example up in Montana where we have an integrated customs border station. When we developed that, we had some problems in developing it, because at that point we were still having questions of whether our customs agents could carry their guns to the restrooms. So the restrooms all had to be on the American side.

We were trying to get integrated immigration laws, because if they got a foot on Canadian soil, they could claim the full rights of the Canadian citizenship. We had to put barriers up in the middle of that building and angle it down a hill, and so two-thirds of the immigration station wound up on the American side with all sorts of problematic issues involved with that.

But the Canadian leadership has shown much more willingness to try to accommodate some of the concerns we have. This is critically important in Detroit, where there is not enough room on the American side to expand trunk clearance facilities; and we need to work with the city of Windsor, as well as up at Port Heron and the tunnel at Windsor. It is critical in Buffalo, where we have had huge concerns about whether we need additional bridges and how we handle the American side there, and at Niagara Falls.

And if we can work out integrated systems at these major border crossings where we do not have to have it on both sides, we do not have to have the truck traffic and car traffic backing up the bridges, it is very important, where we have, in many cases, land on the Canadian side but not on the U.S. side. And I am really pleased to see that this was raised in the bill.

There is a second issue that is not in the bill that may come up in our Committee on Homeland Security markup later this week. The gentleman from Texas (Mr. SESSIONS) has been a leader in this, and I have been supportive, and that is what to do with the air and marine division of ICE, because the air and marine division of the Legacy customs division, the focus was narcotics, and it does not purely fit either being on the border or doing investigatory follow-up. And it is probably the most critical area, as far as air interdiction, marine interdiction and the follow-up of illegal narcotics, that we need some flexibility so that that air and marine has a unique mission separate from the Coast Guard and the air division of the Border Patrol. And that is in flux right now, and we are trying to address that in the Select Committee on Homeland Security.

And if so, I hope we can work with the authorizers as they go to conference on this important bill so that we can match the authorizing committee with the Committee on Homeland Security and the narcotics subcommittee that I chair, and I look forward to working with the chairman on that.

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

I will tell the gentleman that as we are moving forward with the integration at the border, this committee and its responsibilities, especially in the area of customs, will always work with the other authorizing committees to make sure that not only is it more seamless in terms of security, but, frankly, we need to be much more efficient in the movement of economic goods across international lines, especially in the areas that you mentioned, especially in the area of Detroit and Windsor where unbeknownst to a lot of people, when you travel south, you go to Canada.

Mr. Speaker, I reserve the balance of my time, but I will tell the gentleman from Michigan I have no other speakers, and I am prepared to close.

□ 1300

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

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

To make sure that everyone is perfectly clear, I think we may need to recount what occurred in committee in the discussion of this bill in front of the full Committee on Ways and Means.

There were three Members on the minority side that had indicated that they either wanted to offer amendments or they wanted to discuss points at which they may or may not be prepared to offer amendments. The gentleman from California (Mr. BECERRA) raised a point, there was a discussion between staff and Members, and the gentleman from California (Mr. BECERRA) terminated his discussion.

The gentleman from Massachusetts (Mr. NEAL) indicated that he was going to offer amendments. There was a colloquy between the chairman and the gentleman from Massachusetts (Mr. NEAL), and he withdrew his amendment.

The gentleman from Michigan then offered an amendment and had the clarification, which the Chair is grateful for, which was the subject of his amendment and that is that no money could go to enforcement. The gentleman corrected his statement, although he still believes that perhaps the United States Trade Representative is engaged in gamesmanship and perhaps they would send a dollar to enforcement but that would be all.

That was precisely the basis of the discussion that occurred in committee.

The Chair offered to work with the maker of the amendment, the gentleman from Michigan, to put report language that would clarify the concerns that all of us have that this is not an issue over which games should be played.

But what was not mentioned was the fact that an amendment was offered with a specific reference to one country in terms of enforcement. That is, the Chair believes and apparently a majority of the committee believed, because the amendment was put to a vote, there were 11 ayes and 21 noes, that perhaps that degree of direction and specificity is not appropriate; and that had the gentleman not attempted to micromanage, he would have found far more support. Notwithstanding that, he decided to move his amendment.

The offer was made, let us work together to reconcile the concerns, and we can put report language in that shows the concern of the committee that we need money both to general counsel and to enforcement. That offer was rejected.

The gentleman from Michigan instead chose to move his amendment. That amendment was defeated, not for the basic concept of wanting to make

sure that the United States Trade Representative work in the enforcement area as general counsel, because of the way the amendment was written. The degree of specificity and the desire to micromanage and control was the reason the amendment was rejected.

So once the attempt to micromanage failed, then a vote was requested. At any point any Member could have voted no. The vote was 33 to zero, and I think that indicates the true depth of support for this provision.

There truly is no real controversy; and, frankly, there should be no real opposition. I would ask Members to vote for H.R. 4418 with the intent and purpose of its content supported unanimously out of the Committee on Ways and Means.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
*Washington, DC, July 13, 2004.*

Hon. F. JAMES SENSENBRENNER, Jr.,
*Chairman, Committee on the Judiciary, Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN SENSENBRENNER: Thank you for your letter regarding H.R. 4418, the ''Customs Border Security and Trade Agencies Authorization Act of 2004.'' The Committee of Ways and Means ordered favorably reported, as amended, H.R. 4418 on Thursday, July 8, 2004 by a 33–0 vote. I appreciate your agreement to expedite the passage of this legislation although it contains several immigration provisions that are 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 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 immigration 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 both the Committee report and the Congressional Record a copy of our exchange of letters on this matter. Thank you for your assistance and cooperation. I look forward to working with you in the future.

Best regards,

BILL THOMAS,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE OF THE JUDICIARY,
*Washington, DC, July 13, 2004.*

Hon. BILL THOMAS,
*Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.*

DEAR CHAIRMAN THOMAS: In recognition of the desire to expedite floor consideration of H.R. 4418, the ''Customs Border Security Act of 12004,'' the Committee on the Judiciary hereby waives consideration of the bill.

Certain sections of H.R. 4418 contain matters within the Committee on the Judiciary's Rule X jurisdiction: Section 101 (insofar as it authorizes funding for immigration matters); Section 102 (insofar as it requires cost accounting systems for immigration matters); and Section 122 (insofar as the Integrated Border Inspection Areas include immigration matters). Because of the need to expedite this legislation, I will not seek to mark up the bill under the Committee on the Judiciary's secondary referral.

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. 4418 and the Congressional Record during consideration of the legislation on the House Floor.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
*Chairman.*

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

The SPEAKER pro tempore (Mr. PUTNAM). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 4418, as amended.

The question was taken.

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

Mr. THOMAS. 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. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

## 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. 4418.

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

There was no objection.

## URGING THE GOVERNMENT OF PEOPLE'S REPUBLIC OF CHINA TO IMPROVE ITS PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

Mr. BALLENGER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 576) urging the Government of the People's Republic of China to improve its protection of intellectual property rights, and for other purposes, as amended.

The Clerk read as follows:

H. RES. 576

Whereas in 2001, the People's Republic of China agreed to implement a set of sweeping reforms designed to protect intellectual property rights;

Whereas since 2001, China initiated a series of measures and a comprehensive review of its intellectual property rights laws to bring itself in compliance with international standards in patent, trademark, copyright, trade secret, and other intellectual property laws;

Whereas central and local Chinese Government officials continue to work with their counterparts in the United States to improve China's intellectual property rights enforcement through regular bilateral discussions, roundtable meetings, and numerous technical assistance programs;

Whereas China has initiated campaigns to seize illegal and pirated goods, closed or fined several assembly operations for illegal production lines, seized millions of illegal audio-visual products, and expanded training of law enforcement officials relating to intellectual property rights protection;

Whereas although China has made significant improvements to its framework of law, regulations, rules, and judicial interpretations regarding intellectual property rights, its intellectual property rights enforcement mechanisms still face major obstacles, which have resulted in continued widespread piracy and counterfeiting of film, recorded music, published products, software products, pharmaceuticals, chemical products, information technology products, consumer goods, electrical equipment, automobiles and automotive parts, industrial products, and research results throughout China;

Whereas such widespread piracy and counterfeiting in China harms not only the economic development of China but also the economic and legal interests of United States business enterprises that sell their products or services in China, whether or not these United States business enterprises have invested in China or ever will invest in China;

Whereas United States losses due to the piracy of copyrighted materials in China is estimated to exceed $1,800,000,000 annually and counterfeited products to account for 15 to 20 percent of all products made in China, approximately 8 percent of the country's gross national product;

Whereas the market value of counterfeit goods in China is between $19,000,000,000 and $24,000,000,000 annually, causing enormous losses for intellectual property rights holders worldwide;

Whereas the export of pirated or counterfeit goods from China to third country markets causes economic losses to United States and other foreign producers of patented, trademarked, and copyrighted products competing for market share in those third country markets;

Whereas current criminal laws and enforcement mechanisms for intellectual property rights in China by administrative authorities, criminal prosecutions, and civil actions for monetary damages have not effectively addressed widespread counterfeiting and piracy;

Whereas administrative authorities in China rarely forward an administrative case relating to intellectual property rights violations to the appropriate criminal justice authorities for criminal investigation and prosecution;

Whereas China currently has high criminal liability thresholds for infringements of intellectual property rights, with an unreasonable proof-of-sale requirement totaling approximately $24,100 for business enterprises and $6,030 for individuals (according to current exchange rates) that makes criminal prosecution against those enterprises or individuals that violate intellectual property rights extremely difficult;

Whereas seizures and fines imposed by Chinese authorities for intellectual property rights violations are perceived by the violators to be a cost of doing business and such violators are usually able to resume their operations without much difficulty;

Whereas China has the second largest number of Internet users in the world, it still has not acceded to the 1996 World Intellectual Property Organization (WIPO) Internet-related treaties that reflect international norms for providing copyright protection over the Internet;

Whereas China's market access barriers for United States and other foreign cultural products such as movies, music, and books

stops or slows the legal entry of these legitimate products into China, in turn increasing the demand for pirated products; and

Whereas United States Trade Representative, Ambassador Zoellick, and Secretary of Commerce Evans co-chaired an expanded Joint Commission on Commerce and Trade Meeting during Chinese Vice Premier Wu Yi's visit to the United States in April 2004 that led to the Chinese Government's commitment to an action plan to address the piracy and counterfeiting of American ideas and innovations: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) commends the Government of the People's Republic of China for the steps it has taken to improve its legal framework for intellectual property rights protection and for efforts to bring itself toward compliance with international standards for intellectual property rights;

(2) recognizes Chinese Government's renewed commitment through an action plan presented at the 2004 United States-China Joint Commission on Commerce and Trade to significantly reduce intellectual property rights infringement levels by increasing penalties for intellectual property rights violations, cracking down on violators, improving protection of electronic data, and launching a national campaign to educate its citizens about the importance of intellectual property rights protection;

(3) further recognizes, despite the steps referred to in paragraph (1) and paragraph (2), the continued existence of widespread intellectual property rights violations in China;

(4) urges the Chinese Government to closely adhere to its action plan referred to in paragraph (2) in undertaking a coordinated nationwide intellectual property rights enforcement campaign, and to further eliminate the high criminal liability threshold and procedural obstacles that impede the effective use of criminal prosecution in addressing intellectual property rights violations, to increase the criminal penalties provided for in its laws and regulations, and to vigorously pursue counterfeiting and piracy cases;

(5) encourages the Chinese Government to fully and comprehensively implement a legal framework and effective enforcement mechanisms that would protect not only intellectual property rights held by United States and foreign business enterprises with or without investments in China, but also Chinese intellectual property rights holders, which is crucial to China's own economic development and technological advancement;

(6) urges the Chinese Government to give greater market access to the foreign producers of legitimate products such as films and other audio-visual products in order to reduce demand for and prevalence of pirated and counterfeit goods in their absence; and

(7) will continue to monitor closely China's commitment and adherence to its action plan on intellectual property protection presented during the 2004 United States-China Joint Commission on Commerce and Trade, and work with the Administration to further encourage China's efforts to bring its framework of laws, regulations, and implementing rules into compliance with international law and to create and maintain effective intellectual property rights enforcement mechanisms capable of deterring counterfeiting and piracy activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. BALLENGER) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. BALLENGER).

GENERAL LEAVE

Mr. BALLENGER. 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. Res. 576.

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

There was no objection.

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

Mr. Speaker, I rise in support of House Resolution 576, urging the government of the People's Republic of China to improve its protection of intellectual property rights, and I would like to thank the gentlewoman from California (Ms. WATSON) for introducing this resolution.

Mr. Speaker, the unprecedented scale and speed of China's ongoing modernization commands the world's attention. Given the immensity of that country, its transformation cannot but have a profound effect and impact well beyond its borders. All of those witnessing China's rebirth understand that its actions and ambitions will become increasingly central factors in determining the fortunes of the 21st century.

As China assumes an ever more prominent role in the international system, it remains uncertain if this will be matched by an acceptance of responsibilities commensurate with the increasing power it has. Of immediate importance is its willingness to abide by a network of agreements and rules that underlie the international trade system, which operates by consensus and relies heavily on voluntary compliance with its many provisions.

If this system is to work, cooperation cannot be restricted to selected areas of individual advantage but most extend across the whole. For that reason, China's entry into the World Trade Organization was a milestone in the country's development and signaled a welcome commitment to adopting and enforcing its comprehensive rules and agreements.

China's stake in the health of the global economic system is readily apparent. The country's transformation has been financed largely through direct investment from outside the country and by an ever-increasing deluge of exports above all to the United States.

Our annual trade deficit with China has grown every year and now exceeds $100 billion, making the United States the indispensable source of capital for rapid economic development. Given this reality, it is a matter of great concern that the extent of China's commitment to upholding the rules underpinning the system remains ambiguous, especially in the area of intellectual property rights. The protection of these rights is of great and growing importance to many developed countries whose economies are increasingly composed of knowledge-based industries, with the U.S. leading the list.

The piracy of copyrighted materials is a global problem, including in our own country, but nowhere is the problem greater than in China. It is estimated that 60 percent of all goods imported into the United States that infringe on intellectual property rights originated in China. In that country, an estimated 20 percent of all manufactured products are counterfeits. Although the Chinese government has adopted increasingly comprehensive legislation and regulation to address this issue, these will remain largely empty gestures unless enforced.

Here the situation is far less positive. One can walk down virtually any street in Chinese cities and be assaulted by English offers of pirated videotapes and other illegal products in full view of police and other authorities. The blame for this open flouting of this law is often ascribed to laxity or even complicity by local governments over which the central authorities claim to have insufficient control, but this assertion is difficult to accept.

Few would point to China as an example of a country in which the government is too weak to enforce its own laws. We have witnessed repeated examples of energetic, even harsh measures taken against those who would defy the central authorities. It is impossible to believe that if China's leaders decided to rein in this open defiance of the law that it could not do so and do so quickly.

We are confident that, being rational, the Chinese authorities will eventually realize that a relentless pursuit of self-interest that does not accommodate the interests of others cannot be sustained. But until that acceptance occurs, it is incumbent upon us to maintain sufficient pressure on China and other countries harboring these illegal activities to ensure that their costs from tolerating violations are as tangible as many benefits that they now enjoy.

That is why this resolution is both timely and necessary. It recognizes the genuine progress that China has made in the area of protecting intellectual property rights but couples with this the several specific recommendations that the Chinese government must adopt if it is to demonstrate its genuine commitment to the protection of intellectual property rights.

It would be difficult to find a better or more precise issue by which to judge Chinese leadership, determination on their part to play by the rules of the game in the international trading system, and thereby discern the nature of its intended participation in the international system as a whole.

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

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

Mr. Speaker, I rise in strong support of this resolution, and I urge my colleagues to support it as well.

At the outset, let me pay tribute to my dear friend, the gentlewoman from

California (Ms. WATSON), the author of this resolution, who has done so much to protect intellectual property rights across the globe.

Mr. Speaker, a new generation of policymakers have ascended to power in Beijing and with their growth of influence China has begun to play a more responsible and constructive role on the international stage. But as China has assumed its new global commitments, a yawning gap has emerged between Chinese government promises and the reality on the ground.

Mr. Speaker, the stark contrast between China's far-reaching international trade commitments and the harsh treatment afforded American companies trying to sell to China is just the latest example of this enormous credibility gap; and, unfortunately, Mr. Speaker, unless senior Chinese officials recognize that they must live up to their international trade commitments, hundreds of thousands of American workers will lose their jobs.

Mr. Speaker, the United States trade deficit with China continues to grow at an alarming rate. Last year, in 2003, we had a $124 billion deficit with China, the largest ever posted with any country on the face of this planet. The deficit further widened this January to almost $12 billion.

The matter before the House, sponsored by my good friend, the gentlewoman from California (Ms. WATSON), addresses one of the main reasons for this alarming deficit, the systematic and widespread piracy and counterfeiting of copyrighted U.S. materials in China. Fully 15 to 20 percent of all products made in China are counterfeited products. The market value of these goods in China is estimated to be at least $24 billion.

This massive criminal enterprise makes it virtually impossible for U.S. patent holders to sell their goods in China and causes them further economic losses when China exports pirated goods to third countries.

The gentlewoman from California's (Ms. WATSON) measure demands that China undertake a coordinated nationwide intellectual property rights enforcement campaign as well as implement a legal framework to protect both American and Chinese intellectual property.

Mr. Speaker, I strongly urge the regime in Beijing to pay attention to this demand. The U.S. Congress will not tolerate the continued theft of American intellectual property on a massive scale by the Chinese, while the United States is exporting good manufacturing jobs to China by the millions. I urge all of my colleagues to vote for this important initiative.

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

□ 1315

Mr. BALLENGER. Mr. Speaker, I yield 4 minutes to the gentleman from Indiana (Mr. SOUDER).

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

Mr. SOUDER. Mr. Speaker, I rise today on behalf of the manufacturers in my home State who already have not been run out of business by unfair Chinese competition. It is bad enough that China continues to abuse human rights, that they bully Taiwan, they deny workers' rights in China; but we have seen a regular manipulation of their currency that has resulted in unfair competition to the tune of up to 40 percent in the cost of many goods.

I have manufacturers in my district that cannot get the raw materials for the goods for the costs that the Chinese are selling it. That, by definition, is dumping. They are selling in the United States for under the cost of goods for even just the basic raw materials.

We need not just rhetoric out of this Congress. We need an actual law passed that says when they manipulate the currency that countervailing duties are immediately imposed. The administration has been working with dumping lawsuits, but they take up to 3 years. By that time our companies are long gone. Many of these manufacturers are very small; and by the time they steal the private intellectual property rights over the time that they dump illegally into our country, the manufacturers are gone. They are the little guys. They cannot afford attorneys that go for 3 years. They are laying off their employees, and even then they do not know how to fight or how to get big enough to fight.

We in Congress need to be more aggressive, or we will not have a manufacturing base left. We can talk about our national defense, and we will not have a national defense.

Now, intellectual property is important not only to movies, not only to music, but to manufacturers. I have a company in my district that makes the fasteners that go on our containers. We talk about the importance of international trade and security and how we are trying to push that security out to Singapore and into China so we have preclearance before it hits our harbors.

Our security is only as safe as the sealant on the containers. The American companies will give us the numbers of the seals so we can trace to see whether people are cheating, but the Chinese manufacturers will not; and the reason they will not is because they have stolen the intellectual property rights for, for example, this seal. These are four Chinese companies that have duplicated this seal even with ''shinning fortune,'' they meant to say ''shining fortune.'' They spelled it ''shinning.'' They copied it and stole it. We now cannot track the containers because they have stolen intellectual property rights. They have put American companies and workers out of business, and that makes our national security more difficult.

We have to understand that unless we fight for intellectual property rights, unless we fight for our manufacturers, we cannot talk about free trade if it is not fair; and it has to be fair, or it is just a false promise that when we say we are going to have international trade we are all going to be better by the international trade. Free trade must be fair. This resolution is a start, but we do not need this resolution. We need some laws.

Mr. LANTOS. Mr. Speaker, I am delighted to yield as much time as she might consume to the distinguished gentlewoman from California (Ms. WATSON), the author of this legislation.

(Ms. WATSON asked and was given permission to revise and extend her remarks, and include extraneous material.)

Ms. WATSON. Mr. Speaker, I want to thank the gentleman from California (Mr. LANTOS), the ranking member, my good friend and very distinguished Member of the House, and the gentleman from North Carolina (Mr. BALLENGER) for supporting H. Res. 576, a bipartisan resolution urging the government of the People's Republic of China to improve its protection of intellectual property rights, Mr. Speaker. I would also like to thank them for their leadership and their diligence in bringing the bill to the floor for consideration.

Mr. Speaker, H. Res. 576 is a balanced and responsible piece of legislation. It recognizes China's efforts to deal with the serious problems of intellectual property violations, as well as encourages China to redouble its efforts to rectify a serious problem that results in the loss of revenues, according to the USTR's most recent figures, in excess of $2.5 billion yearly to U.S. companies and manufacturers.

The resolution recommends that the Chinese government implement more effective customs and border measures to prevent exportation of pirated goods into the United States and into other countries. It encourages the Chinese government to fully and comprehensively implement a legal framework to protect intellectual property rights; and it urges the Chinese government to give greater market access to foreign producers of legitimate products to reduce the demand for counterfeit goods.

In crafting H. Res. 576, my staff shared the text of the resolution with various Federal Departments and agencies, including the State and Commerce Departments, U.S. Customs, the U.S. Copyright Office, USTR, and the United States Patent and Trademark Offices. In many instances, changes suggested by these various entities have been incorporated into the final version of H. Res. 576.

Mr. Speaker, I will submit for the RECORD at this point letters that I have received from Marybeth Peters, register of copyrights from the United States Copyright Office; and Douglas Lowenstein, the president of Entertainment Software Association, in support of H. Res. 576.

U.S. COPYRIGHT OFFICE,
LIBRARY OF CONGRESS,
*Washington, DC, March 30, 2004.*

Hon. DIANE E. WATSON,
*House of Representatives,*
*Washington, DC.*

DEAR REPRESENTATIVE WATSON: I am pleased to have this opportunity to respond to your request for the Copyright Office's views regarding H. Res. 576. I wholeheartedly agree that consideration of the problem of copyright infringement in China is especially important and timely.

The Copyright Office has actively engaged our counterparts at the National Copyright Administration of China (NCAC) for over twenty years in an effort to foster better understanding and improve the protection of copyrighted works in China. Our most recent exchange was earlier this month, when we hosted a delegation led by Deputy Director General Wang Ziqiang of the NCAC for a one week symposium on the protection and enforcement of copyright. The delegation included officials from the central government in Beijing, officials from several of China's provinces with authority for the enforcement of copyright, and judges who hear copyright infringement cases.

The Copyright Office also plays a crucial role in the United States' bilateral trade relations with China. We advise the Congress, the U.S. Trade Representative's Office, and other federal agencies on copyright protection and enforcement and we participate in trade talks held both in the U.S. and in China.

Over the years, we have worked with China as it has transformed itself from a country that did not even have a copyright law into a WTO member. But we have also been dismayed by the persistent and overwhelming problem of copyright infringement in China. The U.S. copyright industries continue to report piracy rates of at least 90% across the board in China. This fact, combined with the size of the Chinese market and the growing problem of the export of pirated products from China, threatens, if gone unchecked, to deluge markets in the region and around the world with cheap, illegal copies of American products.

Despite these threats, many American companies continue to invest in the Chinese market. I believe that this is indicative of the business opportunities in China. Thus, I see both a crisis of piracy and great opportunity. H. Res. 576 eloquently captures a balanced and realistic assessment of the situation in China and the Copyright Office supports it and hopes that it will be adopted. It is important for the Chinese Government to understand that the United States recognizes that much has been done, but also that it sees how much remains to do and how important it is to finish the job.

Please feel free to contact me again on this or any other copyright matter.

Sincerely,

MARYBETH PETERS,
*Register of Copyrights.*

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ENTERTAINMENT SOFTWARE ASSOCIATION,
WASHINGTON, DC, JULY 12, 2004.

Hon. DIANE WATSON,
Hon. HENRY J. HYDE,
Hon. TOM LANTOS,
*House of Representatives,*
*Washington, DC*

DEAR REPRESENTATIVES, On behalf of the Entertainment Software Association (ESA), our member companies, and the thousands of individuals employed in our industry who are impacted by the scourge of worldwide intellectual property piracy, I would like to take this opportunity to voice our appreciation and to pledge our strong support for your leadership on H. Res. 576, an important measure addressing the need for stronger intellectual property protection and market access in China.

Entertainment software—including video and computer games for video game consoles, personal computers, handheld devices, and the Internet—is a rapidly growing industry with $7 billion in U.S. sales in 2003 and a $20 billion global market for games. There is a large and growing demand for entertainment software in China. As an example, in China's more than 200,000 Internet cafes, where the vast majority of the Chinese people obtain online access, it is estimated that 60 percent of the activity involves game play. However, also China has a serious entertainment software piracy problem. We estimate that 97 percent of all personal computer entertainment software is pirated, while 75 percent of all console products, such as those for the Sony Playstation® and 99 percent of all handheld products, such those for the Nintendo Gameboy® are also pirated. Piracy at these extreme levels makes it extraordinarily difficult to build legitimate distribution and sales.

Addressing these myriad piracy problems will require high-level leadership so that china can adhere to its responsibilities as a WTO member and depart from its past history of piracy problems. Criminal enforcement, including raids, must include fines and imprisonment severe enough to serve as a deterrent to copyright crimes. There must also be criminal enforcement against criminal associations engaging in elaborate enterprises in copyright crimes. China should adopt measures similar to Hong Kong's Organized and Serious Crime Ordinance (OSCO) and should treat copyright crimes similarly to other forms of criminal activity. Internet piracy issues should also be addressed, and China should adopt the WIPO treaties, including their effective prohibitions against the circumvention of technological protection measures (TPMs).

At the same time, entertainment software publishers who enter the market are hindered in their ability to compete with pirates. They face growing threats of import quotas and other market restrictions. Protracted censorship reviews, often requiring several months to complete, give pirates the opportunity to sell unapproved pirated product long before legitimate games are released. Policies such as these only fuel the demand for pirated product.

Again, we want to thank you for your leadership on this issue and we look forward to continuing to work with you and your staffs to shed further light on the I.P. piracy problem in China and on the need to improve the situation in that country.

Sincerely,

DOUGLAS LOWENSTEIN,
*President.*

Both letters have offered unqualified support for the resolution and for the resolution's recognition that much remains to be done with respect to addressing the need for stronger intellectual property protections and greater market access in China.

Mr. Speaker, I represent the 33rd Congressional District of Los Angeles and Culver City, which contains a number of major entertainment companies, including Sony Studios, Capitol Records, Raleigh Film and Television Studios, and the American Film Institute. Each one of these companies, as well as countless residents throughout the greater Los Angeles area, are directly impacted by the scourge of IPR infringement.

The protection of U.S. intellectual property rights abroad and at home is especially crucial to the health and the vitality of the U.S. entertainment sector, which brings in an estimated $535 billion to the U.S. economy and remains one of the Nation's largest export sectors. The loss of revenues from IPR infringement affects the income levels and pocketbooks of not only my constituents but countless other Americans across our Nation.

In the case of China, U.S. companies continue to lose more than $2.5 billion a year due to the piracy of copyrighted materials. Amazingly, counterfeit products account for 15 to 20 percent of all products made in China, approximately 8 percent of its GNP. Counterfeit and pirated items that originate in China include, but are not limited to, movies, recorded music, published products, software, pharmaceuticals, electrical equipment, industrial products, apparel, auto parts, and automobiles.

With respect to entertainment software, one of the most explosive sectors of growth, the Entertainment Software Association estimates that 97 percent of all personal computer entertainment software is pirated in China, while 75 percent of all console products, such as those for the Sony PlayStation, and 99 percent of all handheld products, such as those for the Nintendo Gameboy, are also pirated. That is 99 percent.

As the Entertainment Software Association knows, ''Piracy at this extreme level makes it extraordinarily difficult to build legitimate distribution and sales.''

Moreover, many of these counterfeit products end up reentering our domestic U.S. market in ever-increasing quantities. In fact, the Office of U.S. Immigration and Customs Enforcement estimates that over 60 percent of all pirated goods it seizes originate in China. This is a staggering and sobering statistic; and as anyone can see, IPR theft has reached epidemic levels in China, and its adverse impact is being directly felt by American producers, consumers, and workers in terms of loss of revenues and wages.

Mr. Speaker, in closing, I want to briefly note the recent commitments made by the government of China during the April meeting of the U.S.-China Joint Commission of Commerce and Trade. While the government of the People's Republic of China is to be commended for the steps it has committed to taking to reduce significantly the incidence of piracy by the end of this year, H. Res. 576 most importantly puts Congress on record that it will continue to monitor closely China's commitment and adherence to its action plan and IPR protection and enforcement and that it will work with the administration to further encourage China's efforts to bring its framework of laws, regulations and implementing rules into compliance with international law.

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

Mr. LANTOS. Mr. Speaker, I am delighted to yield 5 minutes to my good friend, the distinguished gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman from California for his time and the gentlewoman from California for her excellent work on this legislation.

To echo the words of the gentleman from Indiana who preceded me in the well, this is a good step but it is not an adequate step. I would differ only in that he said we need more laws. We do not need more laws. We need to enforce the existing laws.

I was one who voted against Permanent Most Favored Nation status for China because I thought the only leverage we had over them to stop them from this piracy was the annual renewal of that trade status. The argument of the prevailing side was, well, now they will be in the WTO and they will have to follow the rules; and in fact, that has been pursued successfully once.

One time the administration has filed one complaint against the largest pirate of U.S. copyright patents and materials in the world, China, which was on a tax benefit extended to semiconductors; and, in fact, that worked. China backed off, although they are going to phase out this subsidy. I think they should have them immediately end it, but in any case that step did yield some results.

The administration is now raising concerns about Viagra, but it is not raising concerns about Videx. What is Videx? Videx is a little dream company in my district, started by a former Hewlett-Packard employee, started up in his garage, now employs directly more than 60 people and hundreds of other people in the production of his product, all done in the United States of America. Videx produces two different systems, a coding system that is not based on bar codes, but a different system, which is very successful, and now a new electronic locking system.

One day they got a call from their distributor in China. They had filed for Chinese patent protection, Chinese trademarks, had done everything according to Chinese law, and they got contacted by their distributor in China. They were very concerned and they did not understand why they had chosen to have another distributor. They thought they had exclusive rights. They said, what are you talking about? They found out that their entire company had been cloned in China, including the Web site. In fact, the Chinese went one better. They had little tiny American flags waving up on top of the building on the phony Videx Web site.

□ 1330

Everything. They used the U.S. copyright and even translated U.S. copyright patent into Chinese in stealing the software. And they made a crappy product.

So it not only cost them market share because of the counterfeiters, the counterfeiters also besmirched the name and quality of their product. And now the Chinese fakes are beginning to market this beyond China.

I have contacted everyone I can in the administration, including the Commerce Secretary and the Special Trade Representative. I have introduced legislation. I have raised this issue many times. It has been noted on the Lou Dobbs Report. We have gotten as much publicity as we can. And the only result is that Videx, in my district, has been contacted by dozens of other United States firms around the country saying exactly the same thing happened to us. Our company, our product was stolen by the Chinese. We had registered it, we had followed all the rules, and the administration will do nothing, nothing to help us.

And that is the current status we have here. Yes, they have stood up for the semiconductor giants and got some concessions from the Chinese. They are going to stand up for Pfizer and Viagra, but not for Videx, for the American dream, for small business, for dozens of companies like Videx around America who need the strong support of the United States Government to fight Chinese piracy.

This resolution is good. It will note the concern of Congress. But firmer steps are necessary.

I have introduced companion legislation to a bill in the Senate by Senator LAUTENBERG that would force the United States Trade Representative to file complaints against Chinese piracy. It is one thing that we are losing jobs because they have dirt-cheap labor, they do not follow environmental rules, and they should fix that, but it is another thing when they are outright stealing the intellectual property, the copyrights, and putting Americans out of business through theft. That has to stop.

This legislation is a start, but we need to take more action and the administration needs to take action in this area.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume, and in closing I urge all my colleagues to support this very important legislation.

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

Mr. BALLENGER. Mr. Speaker, I yield myself such time as I may consume to close.

A great deal has been said about the inactivity of our Federal government with regard to Customs and the inspection of imports, so I would like to deliver a special knowledgeable story that I know about.

In my own hometown of Hickory, North Carolina, we have 47 hosiery mills, and they were being worked against substantially by imports from China and South Korea. We also have a little place called Catawba Valley Technical Institute, where we invested money to train people as to how to take apart a pair of hose and find out what the makeup of that hosiery is; in other words, if it is 60 percent cotton and 40 percent wool, they can find out for sure.

We started checking the imports being brought into our hometown and found none of them matched what they said on the labels. So I called up a lady named Ms. LaBuda, who happened to be at that time the new Customs person in our Federal government, and told her about this.

Within several days, I got a panicked phone call from a person that I had known for years who happens to own a couple of hosiery mills in Hickory, North Carolina. He said, ''Cass, you have to do something for me. I am in real trouble.''

So I asked him what the problem was, and he said, ''Well, Customs has seized two containers of my goods coming in.'' So I asked where they were coming from. He said, ''Well, we buy a little bit from China, and we have hired other people.'' I think personally he hired one or two people just so he could say that. But, anyway, they had one or two containers held up and he said that they were making them wait until they could test the hosiery out.

So I asked him what the makeup of the hosiery was supposed to be. He said, ''I'm not sure about that. But I wonder if you could check them and ask them what is the hosiery made of.'' Polyester in China is very cheap. So he said, ''And find out what the makeup is, the percentages, and so forth, and we will change the labels.'' I said, well, unless I am mistaken, that is not quite legal.

So here we have the Customs agents actually doing something positive. This same lady, because of AGOA, went to Kenya, in Africa, and she trained the people in Kenya as to how to inspect goods coming through. Because AGOA was designed to help African people, not Chinese people, shipping goods through Africa. Well, these people were trained by her. She reported to me that they caught two container loads of goods coming from China going through Kenya. They stopped the goods, they checked the goods out, and they dumped them in the ocean.

What I am trying to say is that our government is doing things. It may take a little time, but if there were more people like Gladys LaBuda working for Customs, we would be in great shape.

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

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on the motion offered by the gentleman from North Carolina (Mr. BALLENGER) that the House suspend the rules and agree to the resolution, H. Res. 576, as amended.

The question was taken.

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

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

The yeas and nays were ordered.

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

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed. Votes will be taken in the following order:

Adoption of H. Res. 712, by the yeas and nays;

motion to suspend the rules on H. Res. 705, by the yeas and nays;

motion to suspend the rules on H.R. 4418, de novo; and

motion to suspend the rules on H. Res. 576, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

## PROVIDING FOR CONSIDERATION OF H.R. 4759, UNITED STATES-AUSTRALIA FREE TRADE AGREEMENT IMPLEMENTATION ACT

The SPEAKER pro tempore. The pending business is the question of agreeing to the resolution, House Resolution 712, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

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

The vote was taken by electronic device, and there were—yeas 337, nays 89, not voting 7, as follows:

[Roll No. 371]

YEAS—337

Aderholt
Akin
Allen
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Bereuter
Berkley
Berman
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Coble
Cole
Collins
Conyers
Cooper
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeGette
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Evans
Everett
Fattah
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hill
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Lampson
Langevin
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McKeon
Meeks (NY)
Menendez
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Olver
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pelosi
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sanchez, Loretta
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—89

Abercrombie
Ackerman
Alexander
Andrews
Baca
Baird
Baldwin
Becerra
Berry
Bishop (GA)
Boswell
Brady (PA)
Brown (OH)
Capuano
Cardoza
Carson (OK)
Clyburn
Costello
Davis (IL)
DeFazio
Delahunt
DeLauro
Deutsch
Etheridge
Farr
Filner
Frank (MA)
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Herseth
Hinchey
Holt
Jackson (IL)
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kleczka
Kucinich
Lantos
Larson (CT)
Lee
Lipinski
Markey
Marshall
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Michaud
Millender-McDonald
Miller, George
Mollohan
Nadler
Neal (MA)
Oberstar
Obey
Owens
Pallone
Pascrell
Pastor
Payne
Peterson (MN)
Pomeroy
Rahall
Rothman
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanders
Schakowsky
Slaughter
Solis
Stark
Strickland
Stupak
Taylor (MS)
Thompson (MS)
Tierney
Velázquez
Weiner
Wexler

NOT VOTING—7

Carson (IN)
Hoeffel
Isakson
Istook
Kind
Majette
Rangel

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PUTNAM) (during the vote). Two minutes remain in this vote.

□ 1402

Mr. DEUTSCH, Ms. MCCOLLUM, and Messrs. OWENS, RUSH, PASCRELL, BISHOP of Georgia and BECERRA changed their vote from ''yea'' to ''nay.''

Ms. HARMAN, Messrs. OTTER, SANDLIN, EMANUEL and FORD, and Ms. HOOLEY of Oregon changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the remainder of this series will be conducted as 5-minute votes.

## URGING THE PRESIDENT TO RESOLVE THE DISPARATE TREATMENT OF TAXES PROVIDED BY THE WORLD TRADE ORGANIZATION

The SPEAKER pro tempore (Mr. PUTNAM). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 705.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ENGLISH) that the House suspend the rules and agree to the resolution, H. Res. 705, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 1, not voting 9, as follows:

[Roll No. 372]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn

Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—9

Burton (IN)
Carson (IN)
Hoeffel
Isakson
Istook
Kind
Majette
Moore
Rangel

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.

□ 1413

Mr. HOEKSTRA changed his vote from ''nay'' to ''yea.''

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## CUSTOMS BORDER SECURITY AND TRADE AGENCIES AUTHORIZATION ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4418, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 4418, as amended.

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

RECORDED VOTE

Mr. CRANE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

PARLIAMENTARY INQUIRIES

Mr. TURNER of Texas. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may state his parliamentary inquiry.

Mr. TURNER of Texas. Mr. Speaker, is this the legislation that authorizes funding for the Customs and Border Protection Agency and Immigration and Customs Enforcement Agency within the Department of Homeland Security?

The SPEAKER pro tempore. The Clerk reported the title. Without objection, the Clerk will report the title again.

There was no objection.

The Clerk read the title of the bill.

Mr. TURNER of Texas. Mr. Speaker, further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. TURNER of Texas. Mr. Speaker, was this bill referred to the Select Committee on Homeland Security?

The SPEAKER pro tempore. No, it was not.

Mr. THOMAS. Mr. Speaker, point of clarification.

The SPEAKER pro tempore. The gentleman may state a parliamentary inquiry.

Mr. THOMAS. Mr. Speaker, the two provisions which are referred to under Homeland Security are actually based upon the creation of Homeland Security, one under the jurisdiction of the Committee on Ways and Means, which is the Treasury Department. The other is under the Committee on the Judiciary. We are in receipt of a letter which allows us to move forward, and, therefore, the bill is in order.

The SPEAKER pro tempore. A recorded vote is ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 341, noes 85, not voting 7, as follows:

[Roll No. 373]

AYES—341

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Dooley (CA)
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly

Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hulshof
Hunter
Hyde
Israel
Issa
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
LaHood
Lampson
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Marshall
Matheson
Matsui
McCarthy (NY)
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Sabo
Sandlin
Saxton
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Van Hollen
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)
Young (FL)

NOES—85

Andrews
Baldwin
Becerra
Bell
Bishop (GA)
Bishop (NY)
Blumenauer
Brady (PA)
Brown, Corrine
Capuano
Clay
Clyburn
Conyers
Cummings
Davis (AL)
Doggett
Doyle
Farr
Fattah
Filner
Ford
Frank (MA)
Gutierrez
Hastings (FL)
Hayes
Hinchey
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jones (NC)
Jones (OH)
Kennedy (RI)
Kilpatrick
Kucinich
Langevin
Larson (CT)
Lee
Lewis (GA)
Lynch
Markey
McCarthy (MO)
McCollum
McDermott
McGovern
Meek (FL)
Meeks (NY)
Miller, George
Neal (MA)
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Reyes
Rothman
Rush
Ryan (OH)
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Sherman
Stark
Stupak
Taylor (MS)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Velázquez
Waters
Watson
Watt
Waxman
Woolsey
Wynn

NOT VOTING—7

Carson (IN)
Hoeffel
Isakson
Istook
Kind
Majette
Rangel

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1424

Messrs. WEXLER, SNYDER, MEEHAN and DAVIS of Florida changed their vote from ''no'' to ''aye.''

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. SHERMAN. Mr. Speaker, I voted against H.R. 4418—The Customs Border Security Act of 2004—because I did not feel a bill of such importance should be considered under suspension of the rules.

## URGING THE GOVERNMENT OF PEOPLE'S REPUBLIC OF CHINA TO IMPROVE ITS PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 576, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. BALLENGER) that the House suspend the rules and agree to the resolution, H. Res. 576, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 3, not voting 14, as follows:

[Roll No. 374]

YEAS—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Markey
Marshall
Matheson
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McCarthy (MO)
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Meehan
Meek (FL)
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Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Nethercutt
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
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Sessions
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| Shuster | Tauzin | Walden (OR) |
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| Smith (MI) | Thompson (CA) | Watt |
| Smith (NJ) | Thompson (MS) | Waxman |
| Smith (TX) | Thornberry | Weiner |
| Smith (WA) | Tiahrt | Weldon (FL) |
| Snyder | Tiberi | Weldon (PA) |
| Solis | Tierney | Weller |
| Souder | Toomey | Wexler |
| Stark | Towns | Whitfield |
| Stearns | Turner (OH) | Wicker |
| Stenholm | Turner (TX) | Wilson (NM) |
| Strickland | Udall (CO) | Wilson (SC) |
| Stupak | Udall (NM) | Wolf |
| Sullivan | Upton | Woolsey |
| Sweeney | Van Hollen | Wu |
| Tancredo | Velázquez | Wynn |
| Tanner | Visclosky | Young (AK) |
| Tauscher | Vitter | Young (FL) |

NAYS—3

| | | |
|---|---|---|
| Diaz-Balart, L. | Diaz-Balart, M. | Ros-Lehtinen |

NOT VOTING—14

| | | |
|---|---|---|
| Carson (IN) | Hoeffel | Manzullo |
| Carson (OK) | Isakson | Neal (MA) |
| Farr | Istook | Rangel |
| Goode | Kind | Spratt |
| Herger | Majette | |

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1432

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## UNITED STATES-AUSTRALIA FREE TRADE IMPLEMENTATION ACT

Mr. THOMAS. Mr. Speaker, pursuant to House Resolution 712, I call up the bill (H.R. 4759) to implement the United States-Australia Free Trade Agreement, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 4759 is as follows:

H.R. 4759

*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 ''United States-Australia Free Trade Agreement Implementation Act''.

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


Sec. 1. Short title; table of contents.
Sec. 2. Purposes.
Sec. 3. Definitions.

TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT

Sec. 101. Approval and entry into force of the Agreement.
Sec. 102. Relationship of the Agreement to United States and State law.
Sec. 103. Implementing actions in anticipation of entry into force and initial regulations.
Sec. 104. Consultation and layover provisions for, and effective date of, proclaimed actions.
Sec. 105. Administration of dispute settlement proceedings.
Sec. 106. Effective dates; effect of termination.

TITLE II—CUSTOMS PROVISIONS

Sec. 201. Tariff modifications.
Sec. 202. Additional duties on certain agricultural goods.
Sec. 203. Rules of origin.
Sec. 204. Customs user fees.
Sec. 205. Disclosure of incorrect information.
Sec. 206. Enforcement relating to trade in textile and apparel goods.
Sec. 207. Regulations.

TITLE III—RELIEF FROM IMPORTS

Sec. 301. Definitions.

Subtitle A—Relief From Imports Benefiting From the Agreement

Sec. 311. Commencing of action for relief.
Sec. 312. Commission action on petition.
Sec. 313. Provision of relief.
Sec. 314. Termination of relief authority.
Sec. 315. Compensation authority.
Sec. 316. Confidential business information.

Subtitle B—Textile and Apparel Safeguard Measures

Sec. 321. Commencement of action for relief.
Sec. 322. Determination and provision of relief.
Sec. 323. Period of relief.
Sec. 324. Articles exempt from relief.
Sec. 325. Rate after termination of import relief.
Sec. 326. Termination of relief authority.
Sec. 327. Compensation authority.
Sec. 328. Business confidential information.

Subtitle C—Cases Under Title II of the Trade Act of 1974

Sec. 331. Findings and action on goods from Australia.

TITLE IV—PROCUREMENT

Sec. 401. Eligible products.


**SEC. 2. PURPOSES.**

The purposes of this Act are—

(1) to approve and implement the Free Trade Agreement between the United States and Australia, entered into under the authority of section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3803(b));

(2) to strengthen and develop economic relations between the United States and Australia for their mutual benefit;

(3) to establish free trade between the 2 nations through the reduction and elimination of barriers to trade in goods and services and to investment; and

(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) AGREEMENT.—The term ''Agreement'' means the United States-Australia Free Trade Agreement approved by Congress under section 101(a)(1).

(2) HTS.—The term ''HTS'' means the Harmonized Tariff Schedule of the United States.

(3) TEXTILE OR APPAREL GOOD.—The term ''textile or apparel good'' means a good listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)).

**TITLE I—APPROVAL OF, AND GENERAL PROVISIONS RELATING TO, THE AGREEMENT**

**SEC. 101. APPROVAL AND ENTRY INTO FORCE OF THE AGREEMENT.**

(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to section 2105 of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3805) and section 151 of the Trade Act of 1974 (19 U.S.C. 2191), Congress approves—

(1) the United States-Australia Free Trade Agreement entered into on May 18, 2004, with the Government of Australia and submitted to Congress on July 6, 2004; and

(2) the statement of administrative action proposed to implement the Agreement that was submitted to Congress on July 6, 2004.

(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Australia has taken measures necessary to bring it into compliance with those provisions of the Agreement that are to take effect on the date on which the Agreement enters into force, the President is authorized to exchange notes with the Government of Australia providing for the entry into force, on or after January 1, 2005, of the Agreement with respect to the United States.

**SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES AND STATE LAW.**

(a) RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW.—

(1) UNITED STATES LAW TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is inconsistent with any law of the United States shall have effect.

(2) CONSTRUCTION.—Nothing in this Act shall be construed—

(A) to amend or modify any law of the United States, or

(B) to limit any authority conferred under any law of the United States,

unless specifically provided for in this Act.

(b) RELATIONSHIP OF AGREEMENT TO STATE LAW.—

(1) LEGAL CHALLENGE.—No State law, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement, except in an action brought by the United States for the purpose of declaring such law or application invalid.

(2) DEFINITION OF STATE LAW.—For purposes of this subsection, the term ''State law'' includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States—

(1) shall have any cause of action or defense under the Agreement or by virtue of congressional approval thereof; or

(2) may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State, on the ground that such action or inaction is inconsistent with the Agreement.

**SEC. 103. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE AND INITIAL REGULATIONS.**

(a) IMPLEMENTING ACTIONS.—

(1) PROCLAMATION AUTHORITY.—After the date of the enactment of this Act—

(A) the President may proclaim such actions, and

(B) other appropriate officers of the United States Government may issue such regulations,

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date on which the Agreement enters into force.

(2) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—Any action proclaimed by the

President under the authority of this Act that is not subject to the consultation and layover provisions under section 104, may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

(3) WAIVER OF 15-DAY RESTRICTION.—The 15-day restriction in paragraph (2) on the taking effect of proclaimed actions is waived to the extent that the application of such restriction would prevent the taking effect on the date the Agreement enters into force of any action proclaimed under this section.

(b) INITIAL REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions required by or authorized under this Act or proposed in the statement of administrative action submitted under section 101(a)(2) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date on which the Agreement enters into force. In the case of any implementing action that takes effect on a date after the date on which the Agreement enters into force, initial regulations to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

**SEC. 104. CONSULTATION AND LAYOVER PROVISIONS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.**

If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and layover requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

(B) the United States International Trade Commission;

(2) the President has submitted a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that sets forth—

(A) the action proposed to be proclaimed and the reasons therefor; and

(B) the advice obtained under paragraph (1);

(3) a period of 60 calendar days, beginning on the first day on which the requirements set forth in paragraphs (1) and (2) have been met has expired; and

(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

**SEC. 105. ADMINISTRATION OF DISPUTE SETTLEMENT PROCEEDINGS.**

(a) ESTABLISHMENT OR DESIGNATION OF OFFICE.—The President is authorized to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 21 of the Agreement. The office may not be considered to be an agency for purposes of section 552 of title 5, United States Code.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year after fiscal year 2004 to the Department of Commerce such sums as may be necessary for the establishment and operations of the office under subsection (a) and for the payment of the United States share of the expenses of panels established under chapter 21 of the Agreement.

**SEC. 106. EFFECTIVE DATES; EFFECT OF TERMINATION.**

(a) EFFECTIVE DATES.—Except as provided in subsection (b), the provisions of this Act and the amendments made by this Act take effect on the date on which the Agreement enters into force.

(b) EXCEPTIONS.—Sections 1 through 3 and this title take effect on the date of the enactment of this Act.

(c) TERMINATION OF THE AGREEMENT.—On the date on which the Agreement terminates, the provisions of this Act (other than this subsection) and the amendments made by this Act shall cease to be effective.

## TITLE II—CUSTOMS PROVISIONS

**SEC. 201. TARIFF MODIFICATIONS.**

(a) TARIFF MODIFICATIONS PROVIDED FOR IN THE AGREEMENT.—The President may proclaim—

(1) such modifications or continuation of any duty,

(2) such continuation of duty-free or excise treatment, or

(3) such additional duties,

as the President determines to be necessary or appropriate to carry out or apply articles 2.3, 2.5, and 2.6, and Annex 2–B of the Agreement.

(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and layover provisions of section 104, the President may proclaim—

(1) such modifications or continuation of any duty,

(2) such modifications as the United States may agree to with Australia regarding the staging of any duty treatment set forth in Annex 2–B of the Agreement,

(3) such continuation of duty-free or excise treatment, or

(4) such additional duties,

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Australia provided for by the Agreement.

(c) CONVERSION TO AD VALOREM RATES.—For purposes of subsections (a) and (b), with respect to any good for which the base rate in the Schedule of the United States to Annex 2–B of the Agreement is a specific or compound rate of duty, the President may substitute for the base rate an ad valorem rate that the President determines to be equivalent to the base rate.

**SEC. 202. ADDITIONAL DUTIES ON CERTAIN AGRICULTURAL GOODS.**

(a) GENERAL PROVISIONS.—

(1) APPLICABILITY OF SUBSECTION.—This subsection applies to additional duties assessed under subsections (b), (c), and (d).

(2) APPLICABLE NTR (MFN) RATE OF DUTY.—For purposes of subsections (b), (c), and (d), the term ''applicable NTR (MFN) rate of duty'' means, with respect to a safeguard good, a rate of duty that is the lesser of—

(A) the column 1 general rate of duty that would have been imposed under the HTS on the same safeguard good entered, without a claim for preferential treatment, at the time the additional duty is imposed under subsection (b), (c), or (d), as the case may be; or

(B) the column 1 general rate of duty that would have been imposed under the HTS on the same safeguard good entered, without a claim for preferential treatment, on December 31, 2004.

(3) SCHEDULE RATE OF DUTY.—For purposes of subsections (b) and (c), the term ''schedule rate of duty'' means, with respect to a safeguard good, the rate of duty for that good set out in the Schedule of the United States to Annex 2–B of the Agreement.

(4) SAFEGUARD GOOD.—In this subsection, the term ''safeguard good'' means—

(A) a horticulture safeguard good described subsection (b)(1)(B); or

(B) a beef safeguard good described in subsection (c)(1) or subsection (d)(1)(A).

(5) EXCEPTIONS.—No additional duty shall be assessed on a good under subsection (b), (c), or (d) if, at the time of entry, the good is subject to import relief under—

(A) subtitle A of title III of this Act; or

(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

(6) TERMINATION.—The assessment of an additional duty on a good under subsection (b) or (c), whichever is applicable, shall cease to apply to that good on the date on which duty-free treatment must be provided to that good under the Schedule of the United States to Annex 2–B of the Agreement.

(7) NOTICE.—Not later than 60 days after the date on which the Secretary of the Treasury assesses an additional duty on a good under subsection (b), (c), or (d), the Secretary shall notify the Government of Australia in writing of such action and shall provide to that Government data supporting the assessment of the additional duty.

(b) ADDITIONAL DUTIES ON HORTICULTURE SAFEGUARD GOODS.—

(1) DEFINITIONS.—In this subsection:

(A) F.O.B.—The term ''F.O.B.'' means free on board, regardless of the mode of transportation, at the point of direct shipment by the seller to the buyer.

(B) HORTICULTURE SAFEGUARD GOOD.—The term ''horticulture safeguard good'' means a good—

(i) that qualifies as an originating good under section 203;

(ii) that is included in the United States Horticulture Safeguard List set forth in Annex 3–A of the Agreement; and

(iii) for which a claim for preferential treatment under the Agreement has been made.

(C) UNIT IMPORT PRICE.—The ''unit import price'' of a good means the price of the good determined on the basis of the F.O.B. import price of the good, expressed in either dollars per kilogram or dollars per liter, whichever unit of measure is indicated for the good in the United States Horticulture Safeguard List set forth in Annex 3–A of the Agreement.

(D) TRIGGER PRICE.—The ''trigger price'' for a good is the trigger price indicated for that good in the United States Horticulture Safeguard List set forth in Annex 3–A of the Agreement or any amendment thereto.

(2) ADDITIONAL DUTIES.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to subsection (a) of this section, the Secretary of the Treasury shall assess a duty on a horticulture safeguard good, in the amount determined under paragraph (3), if the Secretary determines that the unit import price of the good when it enters the United States is less than the trigger price for that good.

(3) CALCULATION OF ADDITIONAL DUTY.—The additional duty assessed under this subsection on a horticulture safeguard good shall be an amount determined in accordance with the following table:

| If the excess of the trigger price over the unit import price is:. | The additional duty is an amount equal to: |
|---|---|
| Not more than 10 percent of the trigger price. | 0. |
| More than 10 percent but not more than 40 percent of the trigger price. | 30 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty. |
| More than 40 percent but not more than 60 percent of the trigger price. | 50 percent of such excess. |
| More than 60 percent but not more than 75 percent of the trigger price. | 70 percent of such excess. |
| More than 75 percent of the trigger price. | 100 percent of such excess. |

(c) ADDITIONAL DUTIES ON BEEF SAFEGUARD GOODS BASED ON QUANTITY OF IMPORTS.—

(1) DEFINITION.—In this subsection, the term ''beef safeguard good'' means a good—

(A) that qualifies as an originating good under section 203;

(B) that is listed in paragraph 3 of Annex I of the General Notes to the Schedule of the United States to Annex 2–B of the Agreement; and

(C) for which a claim for preferential treatment under the Agreement has been made.

(2) ADDITIONAL DUTIES.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to subsection (a) of this section and paragraphs (4) and (5) of this subsection, the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (3), on a beef safeguard good imported into the United States in a calendar year if the Secretary determines that, prior to such importation, the total volume of beef safeguard goods imported into the United States in that calendar year is equal to or greater than 110 percent of the volume set out for beef safeguard goods in the corresponding year in the table contained in paragraph 3(a) of Annex I of the General Notes to the Schedule of the United States to Annex 2–B of the Agreement. For purposes of this subsection, the years 1 through 19 set out in the table contained in paragraph 3(a) of such Annex I correspond to the calendar years 2005 through 2023.

(3) CALCULATION OF ADDITIONAL DUTY.—The additional duty on a beef safeguard good under this subsection shall be an amount equal to 75 percent of the excess of the applicable NTR (MFN) rate of duty over the schedule rate of duty.

(4) WAIVER.—

(A) IN GENERAL.—The United States Trade Representative is authorized to waive the application of this subsection, if the Trade Representative determines that extraordinary market conditions demonstrate that the waiver would be in the national interest of the United States, after the requirements of subparagraph (B) are met.

(B) NOTICE AND CONSULTATIONS.—Promptly after receiving a request for a waiver of this subsection, the Trade Representative shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and may make the determination provided for in subparagraph (A) only after consulting with—

(i) appropriate private sector advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

(ii) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding—

(I) the reasons supporting the determination to grant the waiver; and

(II) the proposed scope and duration of the waiver.

(C) NOTIFICATION OF THE SECRETARY OF THE TREASURY AND PUBLICATION.—Upon granting a waiver under this paragraph, the Trade Representative shall promptly notify the Secretary of the Treasury of the period in which the waiver will be in effect, and shall publish notice of the waiver in the Federal Register.

(5) EFFECTIVE DATES.—This subsection takes effect on January 1, 2013, and shall not be effective after December 31, 2022.

(d) ADDITIONAL DUTIES ON BEEF SAFEGUARD GOODS BASED ON PRICE.—

(1) DEFINITIONS.—In this subsection:

(A) BEEF SAFEGUARD GOOD.—The term ''beef safeguard good'' means a good—

(i) that qualifies as an originating good under section 203;

(ii) that is classified under subheading 0201.10.50, 0201.20.80, 0201.30.80, 0202.10.50, 0202.20.80, or 0202.30.80 of the HTS; and

(iii) for which a claim for preferential treatment under the Agreement has been made.

(B) CALENDAR QUARTER.—

(i) IN GENERAL.—The term ''calendar quarter'' means any 3-month period beginning on January 1, April 1, July 1, or October 1 of a calendar year.

(ii) FIRST CALENDAR QUARTER.—The term ''first calendar quarter'' means the calendar quarter beginning on January 1.

(iii) SECOND CALENDAR QUARTER.—The term ''second calendar quarter'' means the calendar quarter beginning on April 1.

(iv) THIRD CALENDAR QUARTER.—The term ''third calendar quarter'' means the calendar quarter beginning on July 1.

(v) FOURTH CALENDAR QUARTER.—The term ''fourth calendar quarter'' means the calendar quarter beginning on October 1.

(C) MONTHLY AVERAGE INDEX PRICE.—The term ''monthly average index price'' means the simple average, as determined by the Secretary of Agriculture, for a calendar month of the daily average index prices for Wholesale Boxed Beef Cut-Out Value Select 1–3 Central U.S. 600–750 lbs., or its equivalent, as such simple average is reported by the Agricultural Marketing Service of the Department of Agriculture in Report LM–XB459 or any equivalent report.

(D) 24-MONTH TRIGGER PRICE.—The term ''24-month trigger price'' means, with respect to any calendar month, the average of the monthly average index prices for the 24 preceding calendar months, multiplied by 0.935.

(2) ADDITIONAL DUTIES.—In addition to any duty proclaimed under subsection (a) or (b) of section 201, and subject to subsection (a) of this section and paragraphs (4) through (6) of this subsection, the Secretary of the Treasury shall assess a duty, in the amount determined under paragraph (3), on a beef safeguard good imported into the United States if—

(A)(i) the good is imported in the first calendar quarter, second calendar quarter, or third calendar quarter of a calendar year; and

(ii) the monthly average index price, in any 2 calendar months of the preceding calendar quarter, is less than the 24-month trigger price; or

(B)(i) the good is imported in the fourth calendar quarter of a calendar year; and

(ii)(I) the monthly average index price, in any 2 calendar months of the preceding calendar quarter, is less than the 24-month trigger price; or

(II) the monthly average index price, in any of the 4 calendar months preceding January 1 of the succeeding calendar year, is less than the 24-month trigger price.

(3) CALCULATION OF ADDITIONAL DUTY.—The additional duty on a beef safeguard good under this subsection shall be an amount equal to 65 percent of the applicable NTR (MFN) rate of duty for that good.

(4) LIMITATION.—An additional duty shall be assessed under this subsection on a beef safeguard good imported into the United States in a calendar year only if, prior to the importation of that good, the total quantity of beef safeguard goods imported into the United States in that calendar year is equal to or greater than the sum of—

(A) the quantity of goods of Australia eligible to enter the United States in that year specified in Additional United States Note 3 to Chapter 2 of the HTS; and

(B)(i) in 2023, 70,420 metric tons; or

(ii) in 2024, and in each year thereafter, a quantity that is 0.6 percent greater than the quantity provided for in the preceding year under this subparagraph.

(5) WAIVER.—

(A) IN GENERAL.—The United States Trade Representative is authorized to waive the application of this subsection, if the Trade Representative determines that extraordinary market conditions demonstrate that the waiver would be in the national interest of the United States, after the requirements of subparagraph (B) are met.

(B) NOTICE AND CONSULTATIONS.—Promptly after receiving a request for a waiver of this subsection, the Trade Representative shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and may make the determination provided for in subparagraph (A) only after consulting with—

(i) appropriate private sector advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

(ii) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding—

(I) the reasons supporting the determination to grant the waiver; and

(II) the proposed scope and duration of the waiver.

(C) NOTIFICATION OF THE SECRETARY OF THE TREASURY AND PUBLICATION.—Upon granting a waiver under this paragraph, the Trade Representative shall promptly notify the Secretary of the Treasury of the period in which the waiver will be in effect, and shall publish notice of the waiver in the Federal Register.

(6) EFFECTIVE DATE.—This subsection takes effect on January 1, 2023.

**SEC. 203. RULES OF ORIGIN.**

(a) APPLICATION AND INTERPRETATION.—In this section:

(1) TARIFF CLASSIFICATION.—The basis for any tariff classification is the HTS.

(2) REFERENCE TO HTS.—Whenever in this section there is a reference to a heading or subheading, such reference shall be a reference to a heading or subheading of the HTS.

(3) COST OR VALUE.—Any cost or value referred to in this section shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the country in which the good is produced (whether Australia or the United States).

(b) ORIGINATING GOODS.—For purposes of this Act and for purposes of implementing the preferential treatment provided for under the Agreement, a good is an originating good if—

(1) the good is a good wholly obtained or produced entirely in the territory of Australia, the United States, or both;

(2) the good—

(A) is produced entirely in the territory of Australia, the United States, or both, and—

(i) each of the nonoriginating materials used in the production of the good undergoes an applicable change in tariff classification specified in Annex 4–A or Annex 5–A of the Agreement;

(ii) the good otherwise satisfies any applicable regional value-content requirement referred to in Annex 5–A of the Agreement; or

(iii) the good meets any other requirements specified in Annex 4–A or Annex 5–A of the Agreement; and

(B) the good satisfies all other applicable requirements of this section;

(3) the good is produced entirely in the territory of Australia, the United States, or both, exclusively from materials described in paragraph (1) or (2); or

(4) the good otherwise qualifies as an originating good under this section.

(c) DE MINIMIS AMOUNTS OF NONORIGINATING MATERIALS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a good that does not undergo a change in tariff classification pursuant to Annex 5–A of the Agreement is an originating good if—

(A) the value of all nonoriginating materials that—

(i) are used in the production of the good, and

(ii) do not undergo the required change in tariff classification,

does not exceed 10 percent of the adjusted value of the good;

(B) the good meets all other applicable requirements of this section; and

(C) the value of such nonoriginating materials is included in the value of nonoriginating materials for any applicable regional value-content requirement for the good.

(2) EXCEPTIONS.—Paragraph (1) does not apply to the following:

(A) A nonoriginating material provided for in chapter 4 of the HTS or in subheading 1901.90 that is used in the production of a good provided for in chapter 4 of the HTS.

(B) A nonoriginating material provided for in chapter 4 of the HTS or in subheading 1901.90 that is used in the production of a good provided for in subheading 1901.10, 1901.20, or 1901.90, heading 2105, or subheading 2106.90, 2202.90, or 2309.90.

(C) A nonoriginating material provided for in heading 0805 or any of subheadings 2009.11 through 2009.39 that is used in the production of a good provided for in any of subheadings 2009.11 through 2009.39, or in subheading 2106.90 or 2202.90.

(D) A nonoriginating material provided for in chapter 15 of the HTS that is used in the production of a good provided for in any of headings 1501.00.00 through 1508, or in heading 1512, 1514, or 1515.

(E) A nonoriginating material provided for in heading 1701 that is used in the production of a good provided for in any of headings 1701 through 1703.

(F) A nonoriginating material provided for in chapter 17 of the HTS or heading 1805.00.00 that is used in the production of a good provided for in subheading 1806.10.

(G) A nonoriginating material provided for in any of headings 2203 through 2208 that is used in the production of a good provided for in heading 2207 or 2208.

(H) A nonoriginating material used in the production of a good provided for in any of chapters 1 through 21 of the HTS unless the nonoriginating material is provided for in a different subheading than the good for which origin is being determined under this section.

(3) TEXTILE AND APPAREL GOODS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a textile or apparel good that is not an originating good because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4–A of the Agreement shall be considered to be an originating good if the total weight of all such fibers or yarns in that component is not more than 7 percent of the total weight of that component.

(B) CERTAIN TEXTILE OR APPAREL GOODS.—A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good shall be considered to be an originating good only if such yarns are wholly formed in the territory of Australia or the United States.

(C) YARN, FABRIC, OR FIBER.—For purposes of this paragraph, in the case of a textile or apparel good that is a yarn, fabric, or group of fibers, the term ''component of the good that determines the tariff classification of the good'' means all of the fibers in the yarn, fabric, or group of fibers.

(d) ACCUMULATION.—

(1) ORIGINATING MATERIALS USED IN PRODUCTION OF GOODS OF OTHER COUNTRY.—Originating materials from the territory of Australia or the United States that are used in the production of a good in the territory of the other country shall be considered to originate in the territory of the other country.

(2) MULTIPLE PROCEDURES.—A good that is produced in the territory of Australia, the United States, or both, by 1 or more producers, is an originating good if the good satisfies the requirements of subsection (b) and all other applicable requirements of this section.

(e) REGIONAL VALUE-CONTENT.—

(1) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of a good referred to in Annex 5–A of the Agreement, except for goods to which paragraph (4) applies, shall be calculated by the importer, exporter, or producer of the good, on the basis of the build-down method described in paragraph (2) or the build-up method described in paragraph (3).

(2) BUILD-DOWN METHOD.—

(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-down method:

$$RVC = \frac{AV - VNM}{AV} \times 100$$

(B) DEFINITIONS.—In subparagraph (A):

(i) RVC.—The term ''RVC'' means the regional value-content of the good, expressed as a percentage.

(ii) AV.—The term ''AV'' means the adjusted value of the good.

(iii) VNM.—The term ''VNM'' means the value of nonoriginating materials that are acquired and used by the producer in the production of the good, but does not include the value of a material that is self-produced.

(3) BUILD-UP METHOD.—

(A) IN GENERAL.—The regional value-content of a good may be calculated on the basis of the following build-up method:

$$RVC = \frac{VOM}{AV} \times 100$$

(B) DEFINITIONS.—In subparagraph (A):

(i) RVC.—The term ''RVC'' means the regional value-content of the good, expressed as a percentage.

(ii) AV.—The term ''AV'' means the adjusted value of the good.

(iii) VOM.—The term ''VOM'' means the value of originating materials that are acquired or self-produced, and used by the producer in the production of the good.

(4) SPECIAL RULE FOR CERTAIN AUTOMOTIVE GOODS.—

(A) IN GENERAL.—For purposes of subsection (b)(2), the regional value-content of an automotive good referred to in Annex 5–A of the Agreement shall be calculated by the importer, exporter, or producer of the good, on the basis of the following net cost method:

$$RVC = \frac{NC - VNM}{NC} \times 100$$

(B) DEFINITIONS.—In subparagraph (A):

(i) AUTOMOTIVE GOOD.—The term ''automotive good'' means a good provided for in any of subheadings 8407.31 through 8407.34, subheading 8408.20, heading 8409, or in any of headings 8701 through 8708.

(ii) RVC.—The term ''RVC'' means the regional value-content of the automotive good, expressed as a percentage.

(iii) NC.—The term ''NC'' means the net cost of the automotive good.

(iv) VNM.—The term ''VNM'' means the value of nonoriginating materials that are acquired and used by the producer in the production of the automotive good, but does not include the value of a material that is self-produced.

(C) MOTOR VEHICLES.—

(i) BASIS OF CALCULATION.—For purposes of determining the regional value-content under subparagraph (A) for an automotive good that is a motor vehicle provided for in any of headings 8701 through 8705, an importer, exporter, or producer may average the amounts calculated under the formula contained in subparagraph (A), over the producer's fiscal year—

(I) with respect to all motor vehicles in any one of the categories described in clause (ii); or

(II) with respect to all motor vehicles in any such category that are exported to the territory of the United States or Australia.

(ii) CATEGORIES.—A category is described in this clause if it—

(I) is the same model line of motor vehicles, is in the same class of vehicles, and is produced in the same plant in the territory of Australia or the United States, as the good described in clause (i) for which regional value-content is being calculated;

(II) is the same class of motor vehicles, and is produced in the same plant in the territory of Australia or the United States, as the good described in clause (i) for which regional value-content is being calculated; or

(III) is the same model line of motor vehicles produced in either the territory of Australia or the United States, as the good described in clause (i) for which regional value-content is being calculated.

(D) OTHER AUTOMOTIVE GOODS.—For purposes of determining the regional value-content under subparagraph (A) for automotive goods provided for in any of subheadings 8407.31 through 8407.34, in subheading 8408.20, or in heading 8409, 8706, 8707, or 8708, that are produced in the same plant, an importer, exporter, or producer may—

(i) average the amounts calculated under the formula contained in subparagraph (A) over—

(I) the fiscal year of the motor vehicle producer to whom the automotive goods are sold,

(II) any quarter or month, or

(III) its own fiscal year,

if the goods were produced during the fiscal year, quarter, or month that is the basis for the calculation;

(ii) determine the average referred to in clause (i) separately for such goods sold to one or more motor vehicle producers; or

(iii) make a separate determination under clause (i) or (ii) for automotive goods that are exported to the territory of the United States or Australia.

(E) CALCULATING NET COST.—Consistent with the provisions regarding allocation of costs set out in generally accepted accounting principles, the net cost of the automotive good under subparagraph (B) shall be calculated by—

(i) calculating the total cost incurred with respect to all goods produced by the producer of the automotive good, subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the total cost of all such goods, and then reasonably allocating the resulting net cost of those goods to the automotive good;

(ii) calculating the total cost incurred with respect to all goods produced by that producer, reasonably allocating the total cost to the automotive good, and then subtracting any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and nonallowable interest costs that are included in the portion of the total cost allocated to the automotive good; or

(iii) reasonably allocating each cost that forms part of the total cost incurred with respect to the automotive good so that the aggregate of these costs does not include any sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, or nonallowable interest costs.

(f) VALUE OF MATERIALS.—

(1) IN GENERAL.—For the purpose of calculating the regional value-content of a good under subsection (e), and for purposes of applying the de minimis rules under subsection (c), the value of a material is—

(A) in the case of a material that is imported by the producer of the good, the adjusted value of the material;

(B) in the case of a material acquired in the territory in which the good is produced, the value, determined in accordance with Articles 1 through 8, article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act, as set forth in regulations promulgated by the Secretary of the Treasury providing for the application of such Articles in the absence of an importation; or

(C) in the case of a material that is self-produced, the sum of—

(i) all expenses incurred in the production of the material, including general expenses; and

(ii) an amount for profit equivalent to the profit added in the normal course of trade.

(2) FURTHER ADJUSTMENTS TO THE VALUE OF MATERIALS.—

(A) ORIGINATING MATERIAL.—The following expenses, if not included in the value of an originating material calculated under paragraph (1), may be added to the value of the originating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Australia, the United States, or both, to the location of the producer.

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Australia, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(B) NONORIGINATING MATERIAL.—The following expenses, if included in the value of a nonoriginating material calculated under paragraph (1), may be deducted from the value of the nonoriginating material:

(i) The costs of freight, insurance, packing, and all other costs incurred in transporting the material within or between the territory of Australia, the United States, or both, to the location of the producer.

(ii) Duties, taxes, and customs brokerage fees on the material paid in the territory of Australia, the United States, or both, other than duties or taxes that are waived, refunded, refundable, or otherwise recoverable, including credit against duty or tax paid or payable.

(iii) The cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or byproducts.

(iv) The cost of processing incurred in the territory of Australia, the United States, or both, in the production of the nonoriginating material.

(v) The cost of originating materials used in the production of the nonoriginating material in the territory of Australia, the United States, or both.

(g) ACCESSORIES, SPARE PARTS, OR TOOLS.—

(1) IN GENERAL.—Subject to paragraph (2), accessories, spare parts, or tools delivered with a good that form part of the good's standard accessories, spare parts, or tools shall—

(A) be treated as originating goods if the good is an originating good; and

(B) be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 5–A of the Agreement.

(2) CONDITIONS.—Paragraph (1) shall apply only if—

(A) the accessories, spare parts, or tools are not invoiced separately from the good;

(B) the quantities and value of the accessories, spare parts, or tools are customary for the good; and

(C) if the good is subject to a regional value-content requirement, the value of the accessories, spare parts, or tools is taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(h) FUNGIBLE GOODS AND MATERIALS.—

(1) IN GENERAL.—

(A) CLAIM FOR PREFERENTIAL TREATMENT.—A person claiming that a fungible good or fungible material is an originating good may base the claim either on the physical segregation of the fungible good or fungible material or by using an inventory management method with respect to the fungible good or fungible material.

(B) INVENTORY MANAGEMENT METHOD.—In this subsection, the term ''inventory management method'' means—

(i) averaging;

(ii) ''last-in, first-out'';

(iii) ''first-in, first-out''; or

(iv) any other method—

(I) recognized in the generally accepted accounting principles of the country in which the production is performed (whether Australia or the United States); or

(II) otherwise accepted by that country.

(2) ELECTION OF INVENTORY METHOD.—A person selecting an inventory management method under paragraph (1) for a particular fungible good or fungible material shall continue to use that method for that fungible good or fungible material throughout the fiscal year of that person.

(i) PACKAGING MATERIALS AND CONTAINERS FOR RETAIL SALE.—Packaging materials and containers in which a good is packaged for retail sale, if classified with the good, shall be disregarded in determining whether all the nonoriginating materials used in the production of the good undergo the applicable change in tariff classification set out in Annex 4–A or Annex 5–A of the Agreement, and, if the good is subject to a regional value-content requirement, the value of such packaging materials and containers shall be taken into account as originating or nonoriginating materials, as the case may be, in calculating the regional value-content of the good.

(j) PACKING MATERIALS AND CONTAINERS FOR SHIPMENT.—Packing materials and containers for shipment shall be disregarded in determining whether—

(1) the nonoriginating materials used in the production of a good undergo the applicable change in tariff classification set out in Annex 4–A or Annex 5–A of the Agreement; and

(2) the good satisfies a regional value-content requirement.

(k) INDIRECT MATERIALS.—An indirect material shall be treated as an originating material without regard to where it is produced, and its value shall be the cost registered in the accounting records of the producer of the good.

(l) THIRD COUNTRY OPERATIONS.—A good that has undergone production necessary to qualify as an originating good under subsection (b) shall not be considered to be an originating good if, subsequent to that production, the good undergoes further production or any other operation outside the territory of Australia or the United States, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of Australia or the United States.

(m) TEXTILE AND APPAREL GOODS CLASSIFIABLE AS GOODS PUT UP IN SETS.—Notwithstanding the rules set forth in Annex 4–A of the Agreement, textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the HTS shall not be considered to be originating goods unless each of the goods in the set is an originating good or the total value of the nonoriginating goods in the set does not exceed 10 percent of the value of the set determined for purposes of assessing customs duties.

(n) DEFINITIONS.—In this section:

(1) ADJUSTED VALUE.—The term ''adjusted value'' means the value determined under Articles 1 through 8, Article 15, and the corresponding interpretive notes of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(8) of the Uruguay Round Agreements Act, adjusted to exclude any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the good from the country of exportation to the place of importation.

(2) CLASS OF MOTOR VEHICLES.—The term ''class of motor vehicles'' means any one of the following categories of motor vehicles:

(A) Motor vehicles provided for in subheading 8701.20, 8704.10, 8704.22, 8704.23, 8704.32, or 8704.90, or heading 8705 or 8706, or motor vehicles for the transport of 16 or more persons provided for in subheading 8702.10 or 8702.90.

(B) Motor vehicles provided for in subheading 8701.10 or any of subheadings 8701.30 through 8701.90.

(C) Motor vehicles for the transport of 15 or fewer persons provided for in subheading 8702.10 or 8702.90, or motor vehicles provided for in subheading 8704.21 or 8704.31.

(D) Motor vehicles provided for in any of subheadings 8703.21 through 8703.90.

(3) FUNGIBLE GOOD OR FUNGIBLE MATERIAL.—The term ''fungible good'' or ''fungible material'' means a good or material, as the case may be, that is interchangeable with another good or material for commercial purposes and the properties of which are essentially identical to such other good or material.

(4) GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.—The term ''generally accepted accounting principles'' means the recognized consensus or substantial authoritative support in the territory of Australia or the United States, as the case may be, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices, and procedures.

(5) GOOD WHOLLY OBTAINED OR PRODUCED ENTIRELY IN THE TERRITORY OF AUSTRALIA, THE UNITED STATES, OR BOTH.—The term ''good wholly obtained or produced entirely in the territory of Australia, the United States, or both'' means—

(A) a mineral good extracted in the territory of Australia, the United States, or both;

(B) a vegetable good, as such goods are provided for in the HTS, harvested in the territory of Australia, the United States, or both;

(C) a live animal born and raised in the territory of Australia, the United States, or both;

(D) a good obtained from hunting, trapping, fishing, or aquaculture conducted in the territory of Australia, the United States, or both;

(E) a good (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with Australia or the United States and flying the flag of that country;

(F) a good produced exclusively from products referred to in subparagraph (E) on board factory ships registered or recorded with Australia or the United States and flying the flag of that country;

(G) a good taken by Australia or the United States or a person of Australia or the United States from the seabed or beneath the seabed outside territorial waters, if Australia or the United States has rights to exploit such seabed;

(H) a good taken from outer space, if such good is obtained by Australia or the United States or a person of Australia or the United States and not processed in the territory of a country other than Australia or the United States;

(I) waste and scrap derived from—

(i) production in the territory of Australia, the United States, or both; or

(ii) used goods collected in the territory of Australia, the United States, or both, if such goods are fit only for the recovery of raw materials;

(J) a recovered good derived in the territory of Australia or the United States from goods that have passed their life expectancy, or are no longer usable due to defects, and utilized in the territory of that country in the production of remanufactured goods; or

(K) a good produced in the territory of Australia, the United States, or both, exclusively—

(i) from goods referred to in any of subparagraphs (A) through (I), or

(ii) from the derivatives of goods referred to in clause (i),

at any stage of production.

(6) INDIRECT MATERIAL.—The term ''indirect material'' means a good used in the production, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including—

(A) fuel and energy;

(B) tools, dies, and molds;

(C) spare parts and materials used in the maintenance of equipment or buildings;

(D) lubricants, greases, compounding materials, and other materials used in production or used to operate equipment or buildings;

(E) gloves, glasses, footwear, clothing, safety equipment, and supplies;

(F) equipment, devices, and supplies used for testing or inspecting the good;

(G) catalysts and solvents; and

(H) any other goods that are not incorporated into the good but the use of which in the production of the good can reasonably be demonstrated to be a part of that production.

(7) MATERIAL.—The term ''material'' means a good that is used in the production of another good.

(8) MATERIAL THAT IS SELF-PRODUCED.—The term ''material that is self-produced'' means an originating material that is produced by a producer of a good and used in the production of that good.

(9) MODEL LINE.—The term ''model line'' means a group of motor vehicles having the same platform or model name.

(10) NONALLOWABLE INTEREST COSTS.—The term ''nonallowable interest costs'' means interest costs incurred by a producer that exceed 700 basis points above the applicable official interest rate for comparable maturities of the country (whether Australia or the United States).

(11) NONORIGINATING MATERIAL.—The term ''nonoriginating material'' means a material that does not qualify as originating under this section.

(12) PREFERENTIAL TREATMENT.—The term ''preferential treatment'' means the customs duty rate, and the treatment under article 2.12 of the Agreement, that are applicable to an originating good pursuant to the Agreement.

(13) PRODUCER.—The term ''producer'' means a person who engages in the production of a good in the territory of Australia or the United States.

(14) PRODUCTION.—The term ''production'' means growing, raising, mining, harvesting, fishing, trapping, hunting, manufacturing, processing, assembling, or disassembling a good.

(15) REASONABLY ALLOCATE.—The term ''reasonably allocate'' means to apportion in a manner that would be appropriate under generally accepted accounting principles.

(16) RECOVERED GOODS.—The term ''recovered goods'' means materials in the form of individual parts that result from—

(A) the complete disassembly of goods which have passed their life expectancy, or are no longer usable due to defects, into individual parts; and

(B) the cleaning, inspecting, or testing, or other processing that is necessary for improvement to sound working condition of such individual parts.

(17) REMANUFACTURED GOOD.—The term ''remanufactured good'' means an industrial good that is assembled in the territory of Australia or the United States, that is classified under chapter 84, 85, or 87 of the HTS or heading 9026, 9031, or 9032, other than a good classified under heading 8418 or 8516 or any of headings 8701 through 8706, and that—

(A) is entirely or partially comprised of recovered goods;

(B) has a similar life expectancy to, and meets the same performance standards as, a like good that is new; and

(C) enjoys a factory warranty similar to a like good that is new.

(18) TOTAL COST.—The term ''total cost'' means all product costs, period costs, and other costs for a good incurred in the territory of Australia, the United States, or both.

(19) USED.—The term ''used'' means used or consumed in the production of goods.

(o) PRESIDENTIAL PROCLAMATION AUTHORITY.—

(1) IN GENERAL.—The President is authorized to proclaim, as part of the HTS—

(A) the provisions set out in Annex 4–A and Annex 5–A of the Agreement; and

(B) any additional subordinate category necessary to carry out this title consistent with the Agreement.

(2) MODIFICATIONS.—

(A) IN GENERAL.—Subject to the consultation and layover provisions of section 104, the President may proclaim modifications to the provisions proclaimed under the authority of paragraph (1)(A), other than provisions of chapters 50 through 63 of the HTS, as included in Annex 4–A of the Agreement.

(B) ADDITIONAL PROCLAMATIONS.—Notwithstanding subparagraph (A), and subject to the consultation and layover provisions of section 104, the President may proclaim—

(i) modifications to the provisions proclaimed under the authority of paragraph (1)(A) as are necessary to implement an agreement with Australia pursuant to article 4.2.5 of the Agreement; and

(ii) before the end of the 1-year period beginning on the date of the enactment of this Act, modifications to correct any typographical, clerical, or other nonsubstantive technical error regarding the provisions of chapters 50 through 63 of the HTS, as included in Annex 4–A of the Agreement.

**SEC. 204. CUSTOMS USER FEES.**

Section 13031(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is amended by adding after paragraph (13) the following:

''(14) No fee may be charged under subsection (a) (9) or (10) with respect to goods that qualify as originating goods under section 203 of the United States-Australia Free Trade Agreement Implementation Act. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.''.

**SEC. 205. DISCLOSURE OF INCORRECT INFORMATION.**

Section 592(c) of the Tariff Act of 1930 (19 U.S.C. 1592(c)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following new paragraph:

''(8) PRIOR DISCLOSURE REGARDING CLAIMS UNDER THE UNITED STATES-AUSTRALIA FREE TRADE AGREEMENT.—

''(A) IN GENERAL.—An importer shall not be subject to penalties under subsection (a) for making an incorrect claim that a good qualifies as an originating good under section 203 of the United States-Australia Free Trade Agreement Implementation Act if the importer, in accordance with regulations issued by the Secretary of the Treasury, voluntarily and promptly makes a corrected declaration and pays any duties owing.

''(B) TIME PERIODS FOR MAKING CORRECTIONS.—In the regulations referred to in subparagraph (A), the Secretary of the Treasury is authorized to prescribe time periods for making a corrected declaration and paying duties owing under subparagraph (A), if such periods are not shorter than 1 year following the date on which the importer makes the incorrect claim.''.

**SEC. 206. ENFORCEMENT RELATING TO TRADE IN TEXTILE AND APPAREL GOODS.**

(a) ACTION DURING VERIFICATION.—

(1) IN GENERAL.—If the Secretary of the Treasury requests the Government of Australia to conduct a verification pursuant to article 4.3 of the Agreement for purposes of making a determination under paragraph (2), the President may direct the Secretary to take appropriate action described in subsection (b) while the verification is being conducted.

(2) DETERMINATION.—A determination under this paragraph is a determination—

(A) that an exporter or producer in Australia is complying with applicable customs laws, regulations, procedures, requirements, or practices affecting trade in textile or apparel goods; or

(B) that a claim that a textile or apparel good exported or produced by such exporter or producer—

(i) qualifies as an originating good under section 203 of this Act; or

(ii) is a good of Australia,

is accurate.

(b) APPROPRIATE ACTION DESCRIBED.—Appropriate action under subsection (a)(1) includes—

(1) suspension of liquidation of the entry of any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A), in a case in which the request for verification was based on a reasonable suspicion of unlawful activity related to such goods; and

(2) suspension of liquidation of the entry of a textile or apparel good for which a claim has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

(c) ACTION WHEN INFORMATION IS INSUFFICIENT.—If the Secretary of the Treasury determines that the information obtained within 12 months after making a request for a verification under subsection (a)(1) is insufficient to make a determination under subsection (a)(2), the President may direct the Secretary to take appropriate action described in subsection (d) until such time as the Secretary receives information sufficient to make a determination under subsection (a)(2) or until such earlier date as the President may direct.

(d) APPROPRIATE ACTION DESCRIBED.—Appropriate action referred to in subsection (c) includes—

(1) publication of the name and address of the person that is the subject of the verification;

(2) denial of preferential tariff treatment under the Agreement to—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

(B) a textile or apparel good for which a claim has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B); and

(3) denial of entry into the United States of—

(A) any textile or apparel good exported or produced by the person that is the subject of a verification under subsection (a)(1) regarding compliance described in subsection (a)(2)(A); or

(B) a textile or apparel good for which a claim has been made that is the subject of a verification under subsection (a)(1) regarding a claim described in subsection (a)(2)(B).

**SEC. 207. REGULATIONS.**

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out—

(1) subsections (a) through (n) of section 203 and section 204;

(2) amendments to existing law made by the sections referred to in paragraph (1); and

(3) proclamations issued under section 203(o).

## TITLE III—RELIEF FROM IMPORTS

**SEC. 301. DEFINITIONS.**

As used in this title:

(1) AUSTRALIAN ARTICLE.—The term ''Australian article'' means an article that qualifies as an originating good under section 203(b) of this Act.

(2) AUSTRALIAN TEXTILE OR APPAREL ARTICLE.—The term ''Australian textile or apparel article'' means an article—

(A) that is listed in the Annex to the Agreement on Textiles and Clothing referred to in section 101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(4)); and

(B) that is an Australian article.

(3) COMMISSION.—The term ''Commission'' means the United States International Trade Commission.

### Subtitle A—Relief From Imports Benefiting From the Agreement

**SEC. 311. COMMENCING OF ACTION FOR RELIEF.**

(a) FILING OF PETITION.—

(1) IN GENERAL.—A petition requesting action under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry. The Commission shall transmit a copy of any petition filed under this subsection to the United States Trade Representative.

(2) PROVISIONAL RELIEF.—An entity filing a petition under this subsection may request that provisional relief be provided as if the petition had been filed under section 202(a) of the Trade Act of 1974 (19 U.S.C. 2252(a)).

(3) CRITICAL CIRCUMSTANCES.—Any allegation that critical circumstances exist shall be included in the petition.

(b) INVESTIGATION AND DETERMINATION.—Upon the filing of a petition under subsection (a), the Commission, unless subsection (d) applies, shall promptly initiate an investigation to determine whether, as a result of the reduction or elimination of a duty provided for under the Agreement, an Australian article is being imported into the United States in such increased quantities, in absolute terms or relative to domestic production, and under such conditions that imports of the Australian article constitute a substantial cause of serious injury or threat thereof to the domestic industry producing an article that is like, or directly competitive with, the imported article.

(c) APPLICABLE PROVISIONS.—The following provisions of section 202 of the Trade Act of 1974 (19 U.S.C. 2252) apply with respect to any investigation initiated under subsection (b):

(1) Paragraphs (1)(B) and (3) of subsection (b).

(2) Subsection (c).

(3) Subsection (d).

(4) Subsection (i).

(d) ARTICLES EXEMPT FROM INVESTIGATION.—No investigation may be initiated under this section with respect to any Australian article if, after the date on which the Agreement enters into force, import relief has been provided with respect to that Australian article under this subtitle.

**SEC. 312. COMMISSION ACTION ON PETITION.**

(a) DETERMINATION.—Not later than 120 days (180 days if critical circumstances have been alleged) after the date on which an investigation is initiated under section 311(b) with respect to a petition, the Commission shall make the determination required under that section.

(b) APPLICABLE PROVISIONS.—For purposes of this subtitle, the provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d) (1), (2), and (3)) shall be applied with respect to determinations and findings made under this section as if such determinations and findings were made under section 202 of the Trade Act of 1974 (19 U.S.C. 2252).

(c) ADDITIONAL FINDING AND RECOMMENDATION IF DETERMINATION AFFIRMATIVE.—If the determination made by the Commission under subsection (a) with respect to imports of an article is affirmative, or if the President may consider a determination of the Commission to be an affirmative determination as provided for under paragraph (1) of section 330(d) of the Tariff Act of 1930) (19 U.S.C. 1330(d)), the Commission shall find, and recommend to the President in the report required under subsection (d), the amount of import relief that is necessary to remedy or prevent the injury found by the Commission in the determination and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition. The import relief recommended by the Commission under this subsection shall be limited to that described in section 313(c). Only those members of the Commission who voted in the affirmative under subsection (a) are eligible to vote on the proposed action to remedy or prevent the injury found by the Commission. Members of the Commission who did not vote in the affirmative may submit, in the report required under subsection (d), separate views regarding what action, if any, should be taken to remedy or prevent the injury.

(d) REPORT TO PRESIDENT.—Not later than the date that is 30 days after the date on which a determination is made under subsection (a) with respect to an investigation, the Commission shall submit to the President a report that includes—

(1) the determination made under subsection (a) and an explanation of the basis for the determination;

(2) if the determination under subsection (a) is affirmative, any findings and recommendations for import relief made under subsection (c) and an explanation of the basis for each recommendation; and

(3) any dissenting or separate views by members of the Commission regarding the determination and recommendation referred to in paragraphs (1) and (2).

(e) PUBLIC NOTICE.—Upon submitting a report to the President under subsection (d), the Commission shall promptly make public such report (with the exception of information which the Commission determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

**SEC. 313. PROVISION OF RELIEF.**

(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the President receives the report of the Commission in which the Commission's determination under section 312(a) is affirmative, or which contains a determination under section 312(a) that the President considers to be affirmative under paragraph (1) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)(1)), the President, subject to subsection (b), shall provide relief from imports of the article that is the subject of such determination to the extent that the President determines necessary to remedy or prevent the injury found by the Commission and to facilitate the efforts of the domestic industry to make a positive adjustment to import competition.

(b) EXCEPTION.—The President is not required to provide import relief under this section if the President determines that the provision of the import relief will not provide greater economic and social benefits than costs.

(c) NATURE OF RELIEF.—

(1) IN GENERAL.—The import relief (including provisional relief) that the President is authorized to provide under this section with respect to imports of an article is as follows:

(A) The suspension of any further reduction provided for under Annex 2–B of the Agreement in the duty imposed on such article.

(B) An increase in the rate of duty imposed on such article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(C) In the case of a duty applied on a seasonal basis to such article, an increase in the

rate of duty imposed on the article to a level that does not exceed the lesser of—

(i) the column 1 general rate of duty imposed under the HTS on like articles for the immediately preceding corresponding season; or

(ii) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(2) PROGRESSIVE LIBERALIZATION.—If the period for which import relief is provided under this section is greater than 1 year, the President shall provide for the progressive liberalization (described in article 9.2.7 of the Agreement) of such relief at regular intervals during the period in which the relief is in effect.

(d) PERIOD OF RELIEF.—

(1) IN GENERAL.—Subject to paragraph (2), any import relief that the President provides under this section may not be in effect for more than 2 years.

(2) EXTENSION.—

(A) IN GENERAL.—Subject to subparagraph (C), the President, after receiving an affirmative determination from the Commission under subparagraph (B), may extend the effective period of any import relief provided under this section if the President determines that—

(i) the import relief continues to be necessary to remedy or prevent serious injury and to facilitate adjustment by the domestic industry to import competition; and

(ii) there is evidence that the industry is making a positive adjustment to import competition.

(B) ACTION BY COMMISSION.—(i) Upon a petition on behalf of the industry concerned that is filed with the Commission not earlier than the date which is 9 months, and not later than the date which is 6 months, before the date any action taken under subsection (a) is to terminate, the Commission shall conduct an investigation to determine whether action under this section continues to be necessary to remedy or prevent serious injury and whether there is evidence that the industry is making a positive adjustment to import competition.

(ii) The Commission shall publish notice of the commencement of any proceeding under this subparagraph in the Federal Register and shall, within a reasonable time thereafter, hold a public hearing at which the Commission shall afford interested parties and consumers an opportunity to be present, to present evidence, and to respond to the presentations of other parties and consumers, and otherwise to be heard.

(iii) The Commission shall transmit to the President a report on its investigation and determination under this subparagraph not later than 60 days before the action under subsection (a) is to terminate, unless the President specifies a different date.

(C) PERIOD OF IMPORT RELIEF.—Any import relief provided under this section, including any extensions thereof, may not, in the aggregate, be in effect for more than 4 years.

(e) RATE AFTER TERMINATION OF IMPORT RELIEF.—When import relief under this section is terminated with respect to an article—

(1) the rate of duty on that article after such termination and on or before December 31 of the year in which such termination occurs shall be the rate that, according to the Schedule of the United States to Annex 2–B of the Agreement for the staged elimination of the tariff, would have been in effect 1 year after the provision of relief under subsection (a); and

(2) the rate of duty for that article after December 31 of the year in which termination occurs shall be, at the discretion of the President, either—

(A) the applicable NTR (MFN) rate of duty for that article set out in the Schedule of the United States to Annex 2–B of the Agreement; or

(B) the rate of duty resulting from the elimination of the tariff in equal annual stages ending on the date set out in the Schedule of the United States to Annex 2–B of the Agreement for the elimination of the tariff.

(f) ARTICLES EXEMPT FROM RELIEF.—No import relief may be provided under this section on any article that—

(1) is subject to—

(A) import relief under subtitle B; or

(B) an assessment of additional duty under subsection (b), (c), or (d) of section 202; or

(2) has been subject to import relief under this subtitle after the date on which the Agreement enters into force.

**SEC. 314. TERMINATION OF RELIEF AUTHORITY.**

(a) GENERAL RULE.—Subject to subsection (b), no import relief may be provided under this subtitle after the date that is 10 years after the date on which the Agreement enters into force.

(b) EXCEPTION.—If an article for which relief is provided under this subtitle is an article for which the period for tariff elimination, set out in the Schedule of the United States to Annex 2–B of the Agreement, is greater than 10 years, no relief under this subtitle may be provided for that article after the date on which such period ends.

(c) PRESIDENTIAL DETERMINATION.—Import relief may be provided under this subtitle in the case of an Australian article after the date on which such relief would, but for this subsection, terminate under subsection (a) or (b), if the President determines that Australia has consented to such relief.

**SEC. 315. COMPENSATION AUTHORITY.**

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under section 313 shall be treated as action taken under chapter 1 of title II of such Act.

**SEC. 316. CONFIDENTIAL BUSINESS INFORMATION.**

Section 202(a)(8) of the Trade Act of 1974 (19 U.S.C. 2252(a)(8)) is amended in the first sentence—

(1) by striking ''and''; and

(2) by inserting before the period at the end '', and title III of the United States-Australia Free Trade Agreement Implementation Act''.

## Subtitle B—Textile and Apparel Safeguard Measures

**SEC. 321. COMMENCEMENT OF ACTION FOR RELIEF.**

(a) IN GENERAL.—A request under this subtitle for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the President by an interested party. Upon the filing of a request, the President shall review the request to determine, from information presented in the request, whether to commence consideration of the request.

(b) ALLEGATION OF CRITICAL CIRCUMSTANCES.—An interested party filing a request under this section may—

(1) allege that critical circumstances exist such that delay in the provision of relief would cause damage that would be difficult to repair; and

(2) based on such allegation, request that relief be provided on a provisional basis.

(c) PUBLICATION OF REQUEST.—If the President determines that the request under subsection (a) provides the information necessary for the request to be considered, the President shall cause to be published in the Federal Register a notice of commencement of consideration of the request, and notice seeking public comments regarding the request. The notice shall include a summary of the request and the dates by which comments and rebuttals must be received.

**SEC. 322. DETERMINATION AND PROVISION OF RELIEF.**

(a) DETERMINATION.—

(1) IN GENERAL.—If a positive determination is made under section 321(c), the President shall determine whether, as a result of the reduction or elimination of a duty under the Agreement, an Australian textile or apparel article is being imported into the United States in such increased quantities, in absolute terms or relative to the domestic market for that article, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article.

(2) SERIOUS DAMAGE.—In making a determination under paragraph (1), the President—

(A) shall examine the effect of increased imports on the domestic industry, as reflected in changes in such relevant economic factors as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which is necessarily decisive; and

(B) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.

(b) PROVISION OF RELIEF.—

(1) IN GENERAL.—If a determination under subsection (a) is affirmative, the President may provide relief from imports of the article that is the subject of such determination, as described in paragraph (2), to the extent that the President determines necessary to remedy or prevent the serious damage and to facilitate adjustment by the domestic industry to import competition.

(2) NATURE OF RELIEF.—The relief that the President is authorized to provide under this subsection with respect to imports of an article is an increase in the rate of duty imposed on the article to a level that does not exceed the lesser of—

(A) the column 1 general rate of duty imposed under the HTS on like articles at the time the import relief is provided; or

(B) the column 1 general rate of duty imposed under the HTS on like articles on the day before the date on which the Agreement enters into force.

(c) CRITICAL CIRCUMSTANCES.—

(1) PRESIDENTIAL DETERMINATION.—When a request filed under section 321(a) contains an allegation of critical circumstances and a request for provisional relief under section 321(b), the President shall, not later than 60 days after the request is filed, determine, on the basis of available information, whether—

(A) there is clear evidence that—

(i) imports from Australia have increased as the result of the reduction or elimination of a customs duty under the Agreement; and

(ii) such imports are causing serious damage, or actual threat thereof, to the domestic industry producing an article like or directly competitive with the imported article; and

(B) delay in taking action under this subtitle would cause damage to that industry that would be difficult to repair.

(2) EXTENT OF PROVISIONAL RELIEF.—If the determinations under subparagraphs (A) and (B) of paragraph (1) are affirmative, the President shall determine the extent of provisional relief that is necessary to remedy or prevent the serious damage. The nature of the provisional relief available shall be the relief described in subsection (b)(2). Within 30 days after making affirmative determinations under subparagraphs (A) and (B) of paragraph (1), the President, if the President considers provisional relief to be warranted,

shall provide, for a period not to exceed 200 days, such provisional relief that the President considers necessary to remedy or prevent the serious damage.

(3) SUSPENSION OF LIQUIDATION.—If provisional relief is provided under paragraph (2), the President shall order the suspension of liquidation of all imported articles subject to the affirmative determinations under subparagraphs (A) and (B) of paragraph (1) that are entered, or withdrawn from warehouse for consumption, on or after the date of the determinations.

(4) TERMINATION OF PROVISIONAL RELIEF.—

(A) IN GENERAL.—Any provisional relief implemented under this subsection with respect to an imported article shall terminate on the day on which—

(i) the President makes a negative determination under subsection (a) regarding serious damage or actual threat thereof by imports of such article;

(ii) action described in subsection (b) takes effect with respect to such article;

(iii) a decision by the President not to take any action under subsection (b) with respect to such article becomes final; or

(iv) the President determines that, because of changed circumstances, such relief is no longer warranted.

(B) SUSPENSION OF LIQUIDATION.—Any suspension of liquidation ordered under paragraph (3) with respect to an imported article shall terminate on the day on which provisional relief is terminated under subparagraph (A) with respect to the article.

(C) RATES OF DUTY.—If an increase in, or the imposition of, a duty that is provided under subsection (b) on an imported article is different from a duty increase or imposition that was provided for such an article under this subsection, then the entry of any such article for which liquidation was suspended under paragraph (3) shall be liquidated at whichever of such rates of duty is lower.

(D) RATE OF DUTY IF PROVISIONAL RELIEF.—If provisional relief is provided under this subsection with respect to an imported article and neither a duty increase nor a duty imposition is provided under subsection (b) for such article, the entry of any such article for which liquidation was suspended under paragraph (3) shall be liquidated at the rate of duty that applied before the provisional relief was provided.

**SEC. 323. PERIOD OF RELIEF.**

(a) IN GENERAL.—Subject to subsection (b), the import relief that the President provides under subsections (b) and (c) of section 322 may not, in the aggregate, be in effect for more than 2 years.

(b) EXTENSION.—

(1) IN GENERAL.—Subject to paragraph (2), the President may extend the effective period of any import relief provided under this subtitle for a period of not more than 2 years, if the President determines that—

(A) the import relief continues to be necessary to remedy or prevent serious damage and to facilitate adjustment by the domestic industry to import competition; and

(B) there is evidence that the industry is making a positive adjustment to import competition.

(2) LIMITATION.—Any relief provided under this subtitle, including any extensions thereof, may not, in the aggregate, be in effect for more than 4 years.

**SEC. 324. ARTICLES EXEMPT FROM RELIEF.**

The President may not provide import relief under this subtitle with respect to any article if—

(1) import relief previously has been provided under this subtitle with respect to that article; or

(2) the article is subject to import relief under—

(A) subtitle A; or

(B) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.).

**SEC. 325. RATE AFTER TERMINATION OF IMPORT RELIEF.**

When import relief under this subtitle is terminated with respect to an article, the rate of duty on that article shall be the rate that would have been in effect, but for the provision of such relief, on the date the relief terminates.

**SEC. 326. TERMINATION OF RELIEF AUTHORITY.**

No import relief may be provided under this subtitle with respect to any article after the date that is 10 years after the date on which duties on the article are eliminated pursuant to the Agreement.

**SEC. 327. COMPENSATION AUTHORITY.**

For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under this subtitle shall be treated as action taken under chapter 1 of title II of such Act.

**SEC. 328. BUSINESS CONFIDENTIAL INFORMATION.**

The President may not release information which is submitted in a proceeding under this subtitle and which the President considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released, or such party subsequently consents to the release of the information. To the extent a party submits confidential business information to the President in a proceeding under this subtitle, the party also shall submit a nonconfidential version of the information, in which the confidential business information is summarized or, if necessary, deleted.

**Subtitle C—Cases Under Title II of the Trade Act of 1974**

**SEC. 331. FINDINGS AND ACTION ON GOODS FROM AUSTRALIA.**

(a) EFFECT OF IMPORTS.—If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the Commission makes an affirmative determination (or a determination which the President may treat as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930), the Commission shall also find (and report to the President at the time such injury determination is submitted to the President) whether imports of the article from Australia are a substantial cause of serious injury or threat thereof.

(b) PRESIDENTIAL DETERMINATION REGARDING AUSTRALIAN IMPORTS.—In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President shall determine whether imports from Australia are a substantial cause of the serious injury or threat thereof found by the Commission and, if such determination is in the negative, may exclude from such action imports from Australia.

**TITLE IV—PROCUREMENT**

**SEC. 401. ELIGIBLE PRODUCTS.**

Section 308(4)(A) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)(A)) is amended—

(1) by striking ''or'' at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting ''; or''; and

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

''(iii) a party to a free trade agreement that entered into force with respect to the United States after December 31, 2003, and before January 2, 2005, a product or service of that country or instrumentality which is covered under the free trade agreement for procurement by the United States.''.

The SPEAKER pro tempore (Mr. HASTINGS of Washington). Pursuant to the rule, the gentleman from California (Mr. THOMAS) and the gentleman from New York (Mr. RANGEL) each will control 1 hour.

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

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

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

Mr. Speaker, I rise today in strong support of H.R. 4759, which is the instrument that implements the United States-Australian Free Trade Agreement.

This particular Free Trade Agreement is good, it is solid, it will benefit American workers, farmers, consumers, businesses, and the U.S. economy. It brings the United States and Australia closer together economically. No two countries in the world are closer in terms of their views of the world, especially in terms of strategic military concerns; and, frankly, as chairman of the Committee on Ways and Means, this agreement, in my opinion, is long overdue.

Mr. Speaker, I yield the remainder of my time to the gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade; and I ask unanimous consent that the gentleman from Illinois control the remainder of my time.

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

There was no objection.

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

The SPEAKER pro tempore. Without objection, the gentleman from California (Mr. STARK) will control the minority time.

There was no objection.

Mr. STARK. Mr. Speaker, I yield 30 minutes of my time to the gentleman from New York (Mr. CROWLEY), and I ask unanimous consent that he be allowed to yield such time as he sees fit.

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

There was no objection.

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

I am in opposition to H.R. 4759, Mr. Speaker. It deals with issues of credibility, and it deals primarily with issues of pharmaceutical drugs and the possibility of reimportation, an issue dear to the hearts of many of the seniors in this country who are paying outrageous prices and are not being helped by the recent Republican pharmaceutical benefit.

We have been repeatedly either lied to or have had information withheld. I know many of my colleagues are aware that the actuaries in CMS knew that the drug bill was going to cost closer to $500 billion, or $550 billion rather than the $400 billion which was promised. That information was withheld.

For those of my colleagues who read The New York Times this morning,

they are aware of further withholding of information on the part of the Republicans. I guess it is not a lie, but I only bring it up at this point to indicate that I do not think we can trust any statements as to what the trade negotiator or trade representative may or may not be negotiating with Australia and what their intention is in the future.

We were told by OMB in the pharmaceutical drug bill that 2.4 million employees would lose their retiree prescription benefits when we voted for this last pharmaceutical bill under Medicare. Well, guess what? Just earlier this week, we received from the CMS, another branch of the administration, a memo showing that 3.8 million workers will lose their drug benefits as a result of the Republican drug bill. A mere mistake of 1.4 million Americans who are going to lose drug benefits after we were opportuned to pass that bill with the idea that only 2.4 million would lose coverage.

Now my colleagues may or may not care about another almost 1.5 million workers being denied their retirement drug benefits, I know the Democrats do, but I raise these two issues, a difference of almost $200 billion low-balling us on the cost of a drug bill and then subsequently, just today, finding out that 1.5 million more workers are going to lose their benefits. Now how can we depend on the administration to tell us anything straight that is in this trade bill?

I get now to my point. We are concerned that intellectual property language allows pharmaceutical manufacturers to contractually prohibit reimportation of prescription drugs from Australia. We know that. Once we approve this language, any attempt to pass reimportation language will immediately run afoul of the Australian Free Trade Agreement. This is not just about the U.S. and Australia. This is a bill that was engineered by the pharmacy lobby.

Let me point out, when the trade representatives met, they have a board, there were 15 members of the pharmaceutical industry sitting down to advise the trade representative and not one representative of the consumer community. What does that tell us? It tells us that certainly the trade representative representing the administration can undermine the will of the people in this country and the majority of Congress through trade negotiation power over which we are powerless to change after we vote today.

The last time that I checked, reimportation of pharmaceutical drugs was a domestic health policy issue that should be debated in Congress, and we should be making domestic health policy in this Chamber, not the U.S. Trade Representative.

Now, the trade representative is promising to use this language over and over again in future free trade agreements, and eventually it is going to come back to haunt us.

Now I have no doubt that the trade representative knows how to negotiate free trade, but I have a real question if he has any interest in protecting the health care of American citizens. Not only have we given PhRMA the keys to the kingdom, we are now letting them pillage their way through our health care programs.

In a brief moment of honesty, the U.S. Trade Representative admitted that transparency requirements in annex 2(c) of the Fair Trade Agreement actually do apply to a Medicare Part B drug reimbursement decision. In its current form, the proposed change to an average sales price reimbursement system does not meet the transparency requirements of the FTA, it opens the door to challenges, and it frustrates the ability of this body to pass reasonable, safe reimportation that will lower the cost of drugs for our senior citizens by, in many cases, 50 percent, far more than the mere 5 or 10 percent that this cockamamie Buck Rogers discount card that the administration has brought out.

So we are here with a subtle underlying problem, and that is the health care of 42 million seniors in this country, and now it turns out almost 4 million more employed Medicare beneficiaries or people who are receiving their benefits as retirees, and we cannot sell them down the river, Mr. Speaker. That is not the right thing to do.

We could argue the trade bill all day long, take some of these things out, and it is probably all right, but it is engineered not to be amended. We were not allowed to amend it in markup in committee, we cannot amend it here on the floor, it is up or down. So our only choice is to vote it down, send it back to the committee, do it right, and then proceed.

So I urge a no vote.

Mr. Speaker, at this point I yield the balance of my time to the gentleman from Ohio (Mr. BROWN) and ask unanimous consent that he be allowed to yield that time as he sees fit.

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

There was no objection.

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

I want to remind my colleague that we can get into the debate on reimportation of drugs at some time when it is relevant, because it has no application to this agreement.

I am pleased that the House today will pass the long-overdue U.S.-Australia Free Trade Agreement. I applaud the efforts of President Bush and the USTR in negotiating an agreement that opens markets for U.S. exports by eliminating tariffs, reducing nontariff barriers, opening services markets, and strengthening intellectual property protections.

This is an important agreement. The U.S. enjoys a $9 billion trade surplus with Australia, and Australia is our ninth largest goods export market. Australian firms in the U.S. employ about 85,000 Americans, and it is estimated that U.S. exports to Australia support more than 150,000 U.S. jobs. Under the terms of this agreement, over 99 percent of U.S. exports of industrial goods to Australia will become duty-free immediately. U.S. manufacturers estimate that the elimination of tariffs could result in nearly $2 billion per year in increased U.S. exports of manufactured goods.

This agreement also gives our farmers new opportunities. All U.S. agricultural exports to Australia totaling more than $400 million will receive immediate duty-free access. Key agricultural products that will benefit from immediate tariff elimination include soybeans and oilseed products, fresh and processed fruits, vegetables and nuts, and pork products. Our dairy farmers also will have immediate access to the Australian market.

Mr. Speaker, this agreement is also very important to my State of Illinois, which is home to companies including Caterpillar, Boeing, Motorola, Abbott Labs, and Zurich Life. Illinois exports to Australia directly support approximately 4,400 jobs in the State of Illinois. Additionally, there are 20 Australian-owned companies in Illinois, employing over 2,000 people. Nine hundred of these positions are manufacturing jobs. Trade with Australia supports numerous other high-paying jobs in areas such as transportation, finance, and advertising; and between 1999 and 2003, Illinois exports to Australia grew by 12 percent. This Free Trade Agreement means more jobs, better jobs, and higher-paying jobs in Illinois and America.

As chairman of the Subcommittee on Trade, it has been my privilege to have been involved in the completion of this trade agreement, and I thank my colleagues who worked so hard to make this a reality.

I would also like to express appreciation to staff, including, to name just a few, Angela Ellard, Stephanie Lester, Matt Howard, Tim Reif, Viji Rangaswami, Mike Castellano, Brian Gaston, Sam Geduldig, Brian Diffell, Andrew Shore, John DeStefano, Amy Heerink, Rachael Leman, Janet Nuzum, James Koski, Greg Sheiowitz, Chris McConnell, and Vergil Cabasco. I thank them.

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

Mr. CROWLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN).

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Mr. CARDIN. Mr. Speaker, let me thank my friend from New York for yielding me this time.

I rise in support of this free trade agreement and urge my colleagues to support it. This is a bilateral free trade agreement between the United States and Australia. I think that we stand to make more progress when we work on

bilateral agreements rather than multinational agreements, particularly when we are dealing with a country that is very similar to the United States.

The United States and Australia have much in common. Both nations respect basic labor rights and the enforcement of basic workers' rights. This agreement strengthens the enforcement of those laws. Both nations respect the environment, and the agreement calls for both parties to commit to establish high levels of environmental protection and not to weaken or reduce environmental laws to attract trade or investment.

Australia is a close ally of the United States in many of our international activities. The United States enjoys a trade surplus with Australia of $9 billion per year. It is our ninth largest export market.

Mr. Speaker, Australia is a good friend, and it is in our interest to establish a free trade agreement with Australia.

It will open up more markets to U.S. manufacturers and farmers. Australia's tariffs for manufacturing will basically be eliminated on goods coming from the United States to Australia; 99 percent will enter Australia duty free.

There is key relief on the exports of agricultural products to Australia. The United States estimates that more than 400 million per year will receive immediate duty-free access to Australia; and let me just point out as a footnote, there is no additional access to Australia in regards to sugar. This agreement will help U.S. manufacturers and farmers. The United States will enjoy tariff preferences over its European and North Asian competitors and products, such as chemicals and heavy machinery.

In fact, the U.S. National Association of Manufacturers has estimated that the free trade agreement will result in a minimum of $2 billion per year increase in manufacturing exports to Australia. In regards to farming, the United States is already the second largest supplier of Australia's food imports. This bill will even give us greater access.

Mr. Speaker, I think my district is somewhat typical in the Nation. I have a port. We have a large presence of manufacturing. We have a strong agricultural community. My State and the people of Maryland will benefit from this free trade agreement. The people of this Nation will benefit from this free trade agreement. I urge my colleagues to support it.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

It has been a really good year for the drug industry. The pharmaceutical industry is at it again in this body, attempting to undermine U.S. efforts to secure cheaper prescription drugs for millions of Americans. First, the Medicare bill passed late last year specifically prohibited the U.S. Government from negotiating lower drug prices for America's seniors and consumers, the drug industry and the President and the Republican leadership all singing off the same page.

Then the pharmaceutical industry punishes American consumers by restricting the volume of prescription drug inventories in Canada to prevent importation to the U.S., the FDA, the President, Republican leadership and the drug industry again all singing off the same page.

Now the President, the United States Trade Rep together have included language in this U.S.-Australia trade agreement that would enable the drug companies to prevent prescription drug importation, again to the detriment of America's consumers. We can bet those provisions will be in all future trade agreements negotiated by this administration.

USTR and its drug industry allies, sometimes they are hard to tell apart, are doing all they can to drive up prices for Americans and the rest of the world. USTR and the drug industry were the only parties with a seat at the table for these FTA negotiations, no public interest groups, no senior groups, nobody advocating for reimportation.

My question is this: Do we trust the USTR and the President and the drug industry to negotiate lower drug prices? Connect the dots. The drug makers are using every tool at their disposal to put a stranglehold on America's seniors and America's consumers. The reimportation bill this House passed last year included Australia as a platform. The reimportation bill in the Senate includes Australia as a platform. Why would both these bills mention Australia if we were not going to at least attempt to reimport from there?

This FTA shuts the door on all possibilities now and in the future. Why would we do that, Mr. Speaker? The only way to maintain compliance if we pass this FTA is to remove Australia from that bill. Although Australia would likely not be a large reimportation platform, it is not currently impossible. This FTA slams the door on that possibility. It slams the door on any future agreement between Australia and us on the issue.

Now, I want to read for a moment a brief part of a fact sheet from the Australian embassy: ''Australian law does allow the export of nonsubsidized drugs, both generics and brand names,'' in spite of what we heard from my friend here, ''but only by a person who has been given marketing approval to do so, usually the manufacturer or Australian licensee.''

From the Australia embassy: ''Australian law does allow the export of nonsubsidized drugs.'' The drug industry argues the trade agreement is not damaging, because Australian law already prohibits the export of subsidized drugs purchased under its pharmaceutical benefit scheme. However, that prohibition does not include all cost-saving importation from Australia.

The importers of drugs from Australia to the U.S. do not have to purchase from the PBS. The provisions of this free trade agreement set a precedent for another misguided trade policy. We can be sure that this provision, this precedent that Members are going to vote on today, this precedent will be in all future FTAs negotiated by this administration. That is why a ''no'' vote is so very important so we do not set this precedent in this encouragement for the administration to continue to negotiate bad trade law, especially bad trade law for American consumers.

The drug makers are making sure they close off any opportunity for American consumers to obtain affordable prescription drugs. This, Mr. Speaker, is another nail in that coffin. If one supports reimportation of affordable prescription drugs, think twice about the precedent your vote sets here today. A vote for the U.S. free trade agreement with Australia is a move against American consumers and a move against reimportation.

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

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

I would like to remind everyone of a Dear Colleague that was released yesterday by our ranking minority member on the Committee on Ways and Means Subcommittee on Trade, the gentleman from Michigan (Mr. LEVIN), and our ranking member on the full Committee on Ways and Means, the gentleman from New York (Mr. RANGEL); and this is in their Dear Colleague letter: ''The Australia Free Trade Agreement is worthy of support. Article 17.9.4 of the Australia FTA essentially codifies existing U.S. law in an international trade agreement. Current U.S. law allows patent holders to bar the import of their patented products. The patent provision will not have a practical effect due to the fact that Australia's domestic law prohibits the export of drugs purchased through its government-subsidized program which accounts for over 90 percent of all drugs sold in Australia.

''Article 17.9.4 matters only to the extent that the United States is allowing the import of prescription drugs from Australia, or which are covered by a patent owned by an Australian firm. As a practical matter, with or without the Australia FTA, there is little possibility of importing prescription drugs from Australia.''

Mr. Speaker, I yield 3 minutes to the gentlewoman from Washington (Ms. DUNN), cochair of the U.S.-Australia Caucus and a member of our Committee on Ways and Means.

Ms. DUNN. Mr. Speaker, I rise in support of this historic free trade agreement with Australia. Australia has been a true friend and ally. They have been there when it counted the most, on the shores of Normandy, on the

streets of Baghdad when the odds seemed insurmountable and the light of victory was far, far away.

Over 50 years ago, we began an alliance with Australia based on mutual security needs. Today we build on our security alliance in the past with an economic alliance for the future. Bismarck once said that ''politics is the art of the possible.'' While that is certainly true and an accurate description of the negotiations of this agreement, this trade agreement is also about a world of possibilities. There is a common thread that binds the fabric of both nations' past to the future. We are both nations that are built on possibilities. Whether our citizens arrived an Plymouth Rock in Massachusetts or the rocks in Sydney, many came for the possibility of new beginnings and the possibility of determining their own destiny; and just like those before us, this generation of Americans and Australians will paint the canvas of this trade agreement with their entrepreneurial spirit.

In doing so, we are reminded that the strengths of our nations are not in our governments, but in the thousands of our citizens who are turning possibilities into reality; and it is time for this Congress to make this trade agreement a reality.

This is a trade agreement that creates jobs. Two-way trade in goods and services between both countries is already $29 billion each year, supporting more than 270,000 American jobs, 12,500 of which are in my State of Washington alone.

While all States will benefit from this agreement, the Puget Sound region will have even more to gain, because Australia already is our fifth largest trading partner, and the State of Washington leads the Nation with more than $2.6 billion worth of exports to Australia each year. It is a trade agreement that will help businesses and farmers in the Northwest.

For the 25,000 Boeing workers that I represent, this agreement will ensure that Boeing remains competitive in Australia. Currently, nearly 95 percent of Qantas Airways' operating fleet is Boeing aircraft, making them one of Boeing's key customers in that region.

For our high-tech industry, strengthening intellectual property standards will help reduce counterfeiting and piracy, while encouraging capital investments.

For our farmers, eliminating agricultural tariffs and resolving technical and regulatory barriers will ensure that Northwest fruits will enter the Australian market.

Mr. Speaker, vote for this trade agreement, not out of a sense of obligation but because of a steadfast confidence that Americans and Australians can better face the challenges ahead by walking side by side.

Mr. CROWLEY. Mr. Speaker, I yield myself 3½ minutes.

Mr. Speaker, I rise today in strong support of the free trade agreement between the United States and Australia, and I would like to thank all my colleagues on both sides of the aisle who have worked so hard to see that this bill passes with bipartisan support today.

It has been a pleasure for me to work with the gentleman from Missouri (Mr. BLUNT), the majority whip; and my counterparts on the other side of the aisle, the gentleman from Virginia (Mr. CANTOR), chief deputy whip; the gentleman from Alabama (Mr. ROGERS); the dean of my home State, the gentleman from New York (Mr. RANGEL); the gentleman from Michigan (Mr. LEVIN); the gentleman from California (Mr. DOOLEY); and the gentleman from Oregon (Mr. BLUMENAUER). I am proud to speak out in support of this historic bilateral free trade agreement between the United States and Australia.

This is a great day for our two countries and for what is arguably one of our truest and tried allies. From World War I to the war on terror in Afghanistan and in Iraq, Australia has stood shoulder to shoulder with the United States and has been a strong ally of ours throughout the world.

As someone who supports free trade and fair trade, I am proud to be a leader on the Democratic side supporting this free trade agreement. Concerns have been raised, though, about the issue of pharmaceuticals this week, in fact, as of Monday. And I would like to make note of that. I support the reimportation of prescription drugs and have concerns about this trade agreement becoming a precedent for other bilateral agreements; but I want to be clear that nothing, I believe, in this agreement will prohibit the United States from passing its own reimportation laws. And this agreement does not ban the United States from reimportation of prescription drugs.

Australia's domestic law prohibits the exportation of drugs purchased through its taxpayer-subsidized program, which accounts for over 90 percent of all drugs sold in Australia. Why would we ask the Australian taxpayer to subsidize Rx drugs for Americans?

□ 1500

The issue of lowering drug prices is something that this Congress should be working on. In fact, today my colleagues on both sides of the aisle have the opportunity to do that by signing the discharge petition to give the authority to Secretary Thompson, the ability to negotiate lower drug costs for Medicare patients that were stripped away under H.R. 1.

This agreement will not stop the Snowe-Doggett legislation from progressing in the Senate, and it does not stop the U.S. from changing the law and allowing for drug reimportation. I would like to reaffirm that I do not believe that this agreement should be used as a precedent for other trade agreements that USTR makes in the future on reimportation. We need to focus on the positive aspects of this agreement.

This agreement will also benefit my home State of New York and New York City. New York will see immediate benefits from this agreement as it goes into effect. New York last year exported goods valued at over $392 million to Australia, and when this agreement goes into effect, those companies will see an average saving of over 5 percent. Australia is the fifth largest investor in the U.S. equity markets, meaning more jobs for my constituency and the companies that do business in my city who trade securities or work for these firms.

This agreement will keep our economy growing and will be a partnership of equals and will increase the investments and opportunities for both countries. I support this agreement, and I urge my colleagues to vote for final passage.

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

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

Mr. Speaker, the Australia FTA does not prevent Congress from passing legislation on drug reimportation. Under the U.S. Constitution, no trade agreement could do this. Any law passed by Congress will always trump any FTA. There is nothing in the Australia FTA or H.R. 4759 that changes U.S. patent laws or the Federal Food, Drug and Cosmetic Act. The patent provision in the FTA restates U.S. law and applies to all patents, not just pharmaceuticals. Not including this provision would be devastating to U.S. intellectual property rights holders in every sector.

Australian law already bans the exportation of drugs dispensed under its pharmaceutical benefits scheme. Unlike Canada, Australian law expressly prohibits other parties such as a wholesaler or pharmacist from exporting non-PBS dispensed drugs. Therefore, any change in U.S. law would have no practical effect on reimportation to Australia due to Australia domestic law, regardless of the FTA; and, therefore, Australia would have no plausible basis to claim harm or pursue sanctions.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PORTMAN), one of our colleagues on the Committee on Ways and Means.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding me time, and I appreciate his clarification and also the clarification of the gentleman from New York (Mr. CROWLEY) as this legislation before us relates to the issue of importation of prescription drugs.

I do rise in very strong support of the U.S.-Australian Free Trade Agreement. As the gentleman from New York (Mr. CROWLEY) has said, we have a longstanding friendship with Australia. We also have a lot of economic interest and move forward with this particular legislation. Knocking down barriers always leads to a fairer and a more healthy relationship between countries

and for better economics between both countries.

In this case, this bipartisan agreement will give a boost to our large and growing investment links with Australia and will help strengthen the U.S. economy. President Bush and Ambassador Bob Zoellick deserve a lot of credit for moving forward strongly with this particular agreement and for their continued determination on bilateral agreements in general.

This agreement will help small business and manufacturers quite a bit in my home State of Ohio. Australia is now number 11 in terms of countries to which we export. Total exports are now valued at $389 million. Ohio primarily exports high-value products to Australia, aircraft engines and parts, auto parts, forklift trucks, pet food, household appliances. If the Free Trade Agreement was in effect last year, we would have seen over 93 percent of those exports, including again some of these manufactured high-quality, high-value exports, 93 percent of them would have entered Australia duty free.

Ohio's exports to Australia directly support about 1,800 good-paying jobs in Ohio. And, by the way, there are 17 Australian-owned companies in Ohio, which also employ roughly 1,800 people. 1,300 of those positions, by the way, are in manufacturing.

Trade with Australia supports countless other high-paying jobs in areas such as transportation, finance and advertising. This agreement is good for Ohio. It is good for jobs. It is good for relations with one of our great friends, Australia. Opening markets across the globe to Ohio businesses is the key to keeping our Buckeye economy strong.

The U.S.-Australia Free Trade Agreement is also important because Australia and the U.S. share a lot of similar goals in terms of international trade. We are both supporters of achieving trade liberalization in the current round of trade talks. We are both pursuing market access through regional and bilateral trade agreements. Another reason to support this agreement.

With overwhelming support today, we will be helping to fulfill President Bush's vision of a world that trades in freedom.

Mr. BROWN of Ohio. Mr. Speaker, I have been here 12 years and heard these same arguments. I look at my State, and we have lost one out of six manufacturing jobs, 190 jobs every day during the Bush administration, and I do not see how it adds up.

Mr. Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, I thank my good friend, the gentleman from Ohio (Mr. BROWN), for yielding me time.

I rise in strong opposition to this agreement. It seems to me that before we rush into yet another free trade agreement we should spend a little bit of time assessing the horrendous impact that past free trade agreements have had on the middle class and working families of this country. If you have a policy which is failing, failing and failing, why do you want to continue going along that path?

Mr. Speaker, for many years now, corporate America and the big money interests have told us how good unfettered free trade would be if they spent a fortune getting these agreements passed. What they forgot to tell us is that while these free trade agreements are in fact good for the big corporations and their well-paid CEOs, they have been a disaster for the middle class and working families of our country.

The reality is, despite tremendous increases in technology and productivity, the average American today is working longer hours for lower wages. The gap between the rich and the poor is getting wider, and poverty is increasing. The middle class in America is collapsing, and unfettered free trade is one of the reasons.

In the last 3 years alone, we have lost 2.7 million good manufacturing jobs, over 16 percent of the total, and now after the collapse of manufacturing we are beginning to see the hemorrhaging of good-paying information technology jobs. While large corporations throw American workers out on the streets and move to China, India, Mexico and other low-wage countries, the new jobs being created here for our people are mostly low wage with minimal benefits. In fact, according to the Bureau of Labor Statistics, 7 out of 10 of the fastest-growing professions in the next 10 years are going to be with high school degrees, minimal benefits, lower wages.

Is that the future that we want for our country?

To add insult to injury, Mr. Chairman, the President of the U.S. Chamber of Commerce, Tom Donohue, the leader of our country's big business organization, has urged, has urged American companies to send our jobs overseas. Urged them. That is the kind of contempt that corporate America has for the working families of this country. By continuing to pass unfettered free trade agreements, we accommodate Mr. Donohue's goal; and we will see the loss of more and more good-paying jobs in this country.

I understand that Australia is not China, and I understand that workers there earn comparable wages, and I understand they do not go to jail when they stand up for their rights, and we could perhaps negotiate good agreements here and there with Australia, but an unfettered free trade agreement is not good.

Let me conclude by mentioning two specific objections I have.

Number one, the gentleman from Ohio (Mr. BROWN) is right about reimportation and prescription drugs. I worry very much about the precedent, if we want to lower prescription drug costs in this country by this agreement.

Second of all, dairy farmers in Vermont, New England and America will be significantly and negatively impacted by the importation of a lot of dairy products over the years from Australia.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume. The State of Vermont exported $12.8 million of merchandise to Australia in 2003. Vermont's high-value exports to Australia include food for infants, aircraft and sports equipment; and if the FTA was in place in 2003, 99.8 percent of Vermont's exports would have entered Australia duty free.

American exports to Australia directly and indirectly support over 270,000 jobs in the United States.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, listening to my colleague from Vermont, we have been neglected to be told that free trade is also responsible for obesity, male pattern baldness and the breakup of the Beatles.

The fact of the matter is that America needs new customers for our farm products, for things we are manufacturing. The principle involved here is, the principle is that if America builds a better product, we ought to be able to sell it without discrimination throughout the world. If someone else builds a better product, a better mousetrap, we ought to be able to buy it for our families and for our business.

America needs more customers like Australia. In Texas, this trade agreement means some 12,000 jobs for our State. It is good for our farmers. It is good for our manufacturers. On the day it goes into place, 99 percent of Australian penalties on products built in Texas and the U.S. will disappear. That is good for our workers. It is good for our farmers. It is great for our consumers.

This is a trade agreement that is excellent for U.S. manufacturers and the workers who work for them.

Mr. CROWLEY. Mr. Speaker, I ask unanimous consent for the gentleman from Michigan (Mr. LEVIN) to control the remainder of my time for purposes of yielding.

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

There was no objection.

Mr. CROWLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN OF Virginia. Mr. Speaker, I hesitate to use the term ''slam dunk'' any more, but if you cannot agree with this trade agreement, I do not know what trade agreement you are ever going to agree with. In fact, you would probably have to oppose agreements between the States of the United States.

The fact is, of the $28 billion of trade with Australia, we enjoy a surplus of $9 billion. That means Australia is buying $9 billion more of goods and services from us than we are buying from them.

The fact is that this is generating jobs in the United States. Trade can do that and trade will do that. The fact is that there is $700 million of agricultural products that we are selling to Australia, and they are now going to be able to be purchased more cheaply because there will be duty free access. We have National Treatment for our U.S. investors, guaranteeing fair and nondiscriminatory treatment. Who could be opposed to that?

We have guaranteed, substantial access for U.S. service suppliers, telecom, financial services, professional service providers. Australia has agreed to improve its intellectual property laws so we do not have to worry about that. We are going to have the highest level of protection throughout the world for U.S. products in that area. Even more importantly to my Democratic colleagues, Australia has the highest level of labor and environmental standards. They are tougher than ours. So it just seems to me that under this agreement we have so much to gain and very little to lose.

And, again, with regard to this issue that has been brought up with regard to pharmaceutical products, Australia will not allow the export of subsidized pharmaceutical products; and 90 percent of its pharmaceuticals that are prescribed are, in fact, subsidized.

So, again, let us support this agreement. Do the right thing by America's workers and its employers.

Mr. CRANE. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Pennsylvania (Mr. ENGLISH).

□ 1515

Mr. ENGLISH. Mr. Speaker, today, the House is considering, I think, landmark trade legislation by considering a free trade agreement with our close ally and trading partner, Australia.

As a member of the Subcommittee on Trade, I have had the opportunity to review many trade agreements and specific concerns with our trading partners, and I am happy to conclude that the U.S.-Australia FTA is among the most pro-American, pro-worker agreements that we have seen before this House.

For 50 years, we have cooperated closely on security issues and developed a trading relationship to the tune of $29 billion. What is more, the United States enjoys a $9 billion trade surplus with Australia. Indeed, Australia purchases more goods from the United States than it does from any other country, and that is extraordinary.

While our positive relationship is an important factor in approving this FTA, to me, Mr. Speaker, this agreement really stands on its own merits on what it will do for manufacturers in my congressional district.

Australian companies currently employ 1,600 people in Pennsylvania of whom 600 are in the manufacturing sector. This agreement would increase investment opportunities in Pennsylvania and create jobs.

Australia is the eighth largest market for Pennsylvania goods exports, with total exports valued at $430 million last year.

Pennsylvania's economy is heavily dependent on manufacturing; and 21 percent, or $89 million, of our total exports to Australia was in manufactured machinery in 2003. Our exports to Australia support, we estimate, 2,000 jobs in Pennsylvania alone.

This agreement would lower the tariffs on American manufactured products and create even more opportunities for local manufacturers to tap into a robust Australian market.

By immediately making almost 99 percent of U.S. manufactured exports to Australia duty free, American exports would shoot up by an estimated $2 billion annually. Since 93 percent of our goods exported to Australia are in industrial products, the significant benefit this agreement offers U.S. manufacturers is obvious.

Mr. Speaker, it is clear that our relationship with Australia is one of our most important. By approving this FTA, we can deepen this relationship, and we can also enter into an FTA which will particularly benefit our manufacturing sector; and that is what sets this treaty particularly apart from others that have come before this House.

I urge my colleagues strongly, on a bipartisan basis, to embrace this FTA.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2½ minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, Australia is exactly the type of nation we should seek trade agreements with, but not with a Xerox of our old and failed policies under fast track, with no amendments allowed here on the floor of the House.

There is only one new provision, strangely enough, one to prohibit the reimportation of less expensive prescription drugs. Where did that come from, I wonder? It must be American policy. No, I think it is pharmaceutical industry policy.

Now, we talk about Australia. We have a trade surplus. Why do we need this agreement? We had a trade surplus with Mexico. They talked about that how it was going to get bigger. Guess what, now we have a deficit. If we have a policy that is dramatically failing the Nation, our workers, our consumers, what do we do? In this Congress and with this administration, we do more of the same, $525 billion trade deficit, $1 million a minute of American wealth and jobs flowing overseas, mostly to unfair competition.

This agreement does not have enforceable labor standards. In fact, if we can have enforceable trademark and property standards, why can we not have an enforceable labor standard? And if we have not got one with Australia, who are we ever going to get one with?

It does not have enforceable environmental standards. If we cannot get enforceable environmental and consumer protection standards with Australia, who are we going to ever get one with? China? I do not think so.

Then why are pharmaceuticals in this agreement? Because this administration and their special trade representatives say this is a template for all future agreements, and they want to renegotiate our agreement with Canada to prohibit the reimportation of less expensive pharmaceuticals because it is undermining the obscene profits of the pharmaceutical industry. That is plain and simple.

Dairy and cheese and wheat, I think those are all questionable provisions; and, again, it undermines the ability of State and local governments to have contracting provisions that give preference to businesses of their choice.

Everything that is wrong with every other trade agreement that has led to the $525 billion trade deficit is wrong with the principles in this one. We are only lucky that it is a country that has a higher minimum wage, that has national health care, that has strong environmental laws, and that is not likely to change; but this will incorporate and further cement in these bad principles a new one that is absolutely atrocious, which protects the profits of the pharmaceutical industry against the health and welfare of the American people.

Vote ''no'' on this, and let us get a new trade policy that works for all Americans, not just a select few multinational corporations and special interests.

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

Oregon is a trader with Australia right now, and Australia is the 10th largest market for Oregon goods that are exported with total exports valued at over $257 million in 2003. Oregon's high-volume exports to Australia include chassis trucks, fertilizers, vehicle parts, and helicopters.

Oregon exports to Australia directly support approximately 1,200 jobs. Additionally, there are 12 Australian-owned companies in Oregon employing over 300 people. Trade with Australia supports numerous other high-paying jobs in areas such as transportation, finance, and advertising.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Speaker, I thank the gentleman for yielding me time, and I appreciate the 2 minutes.

I obviously rise in strong support of the Australia free trade agreement. Let me add a few positives to what has already been said.

We have some who disagree with us on the other side. They have split up the other side. Trade is absolutely critical to our economy. American businesses and workers are the best in world. When we open up markets for American products, our companies sell more overseas and create more jobs back here at home.

This agreement is certainly clearly beneficial to the U.S. Two-way trade, as has been stated, between the U.S. and Australia is approximately $29 billion; and I will mention it again, the surplus of $9 billion. Every State in America exports. Every single State exports to Australia.

My home State of Michigan, for example, ranks as number five, fifth highest, over $2 billion in export products in the last 3 years; but we can do a great deal more than that. Let me take a look at the American auto industry for a moment. This is a significant part of the economy in my district and many, many more around the country.

It is no secret that global competition in the auto sector is intense. Auto companies around the world work hard to realize price advantages over their competitors. The U.S.-Australia Free Trade Agreement gives our auto companies a real leg up. As a result of this agreement, on January 1, 2005, American auto exports to Australia will cost 10 to 15 percent less than our Japanese, Korean, and European competitors.

That means more work building cars for export to Australia for the 600,000 Americans employed by auto companies and the 2 million Americans who work for auto suppliers, as well as the many industries that support those companies. These are real benefits that we will bring to those American workers and many others by passing this agreement today.

Free trade agreements, like the one before us today, are good for our country, with our good friend Australia in particular. They mean more jobs at better wages. They mean long-term health for our economy.

So let us make it a reality. Vote ''yes'' on the U.S.-Australia Free Trade Agreement.

Mr. LEVIN. Mr. Speaker, it is my pleasure to yield 2 minutes to the gentlewoman from Guam (Mr. BORDALLO), a very capable Congresswoman.

Ms. BORDALLO. Mr. Speaker, I thank my colleague from Michigan for the time.

Mr. Speaker, I rise in strong support of the U.S.-Australia Free Trade Agreement. The agreement before us deals with some very big numbers. It supports over 270,000 jobs here at home and the $18 billion in exports to Australia these workers generate annually.

Australian exports to Guam are approximately $12 million per year, consisting mainly of consumer goods and building materials. The Guam shipyard is capable of repairing Australian vessels, and the twice weekly direct flights between Cairns and Guam bring a steady stream of tourists in both directions.

Under the agreement, 99 percent of Guam's exports will enter Australia duty free. Even greater than the numerical case for supporting this free trade agreement are the shared values that underpin trade between our two nations. Many of my colleagues have appropriately used trade agreements in the past to highlight the failure of our trading partners to address human rights, environmental quality control, and labor standards within their borders.

Under these trade criteria, Australia is exactly the kind of country that we should trade with. Australia has an outstanding record on meeting its international human rights commitments. Australia is our partner in promoting these values in the Asia Pacific region.

Australia's environmental standards give us the reassurance that our imports do not abuse global resources. Their laws protecting coral reefs and their strong enforcement of them serve as a model for protecting our own endangered ocean habitat.

Australia's labor standards are so deeply ingrained in their society that they serve as a reminder to us that we owe our own workers a higher minimum wage. Under this agreement, we are not in a race to the bottom with Australia's workers; but rather, Mr. Speaker, we are sharing the best of what we make for our common advantage.

Given our shared values with the people of Australia, it only makes sense that we pass this agreement today. I urge my colleagues to do so.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Connecticut (Mrs. JOHNSON).

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman for yielding me the time, and I congratulate Ambassador Zoellick and our President for getting a very good trade agreement with Australia, one that will benefit workers, consumers, and companies alike.

We have had a long and mutually beneficial relationship with Australia. It has been a trusted, staunch ally in the Pacific and a progressive voice for expanding free trade around the globe.

Mr. Speaker, this is a pioneering trade agreement. It is the most significant reduction in industrial tariffs ever achieved in a free trade agreement. This is, at its heart, a manufacturers' trade agreement.

While Connecticut is a long way from Sydney, one would never know it based on the economic ties between my home State and Australia. Nearly $140 million worth of merchandise was exported from Connecticut to Australia in 2003. In 1999, the figure was $81 million. We have increased exports by $60 million without a trade agreement. Imagine what we will be able to do with this trade agreement, which reduces manufacturing tariffs from a full 5 percent. It literally wipes them out. That is equivalent to a 5 percent price reduction in product in the market.

So if we have been able to grow our trade with Australia, that is, between Connecticut and Australia, without this agreement, think what a boon this will be for nearly 99 percent of Connecticut's exports that will enter Australia with this agreement duty free.

I believe the Australian agreement is indicative of the bright future trade liberalization is creating. Australia is a democratic, well-developed nation with amongst the highest labor and environmental standards in the world and with a very capable enforcement system. It simply does not make sense for either nation to preserve antiquated tariffs in light of our strong economic and political ties.

□ 1530

I strongly support this U.S.-Australian trade agreement and urge the House to pass it.

Let me conclude, Mr. Speaker, by noting that 25 percent of our gross national product is the direct consequence of exports and trade, and not to expand that customer base would be to condemn our children and follow-on generations to a weak economy unable to provide the standard of living we have come to enjoy. And, therefore, I urge support of this trade agreement.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume to note that I wish our trade policy were working as well for American manufacturing as my friends say it is.

Mr. Speaker, could the Chair tell each of us how much time the three of us have remaining?

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The gentleman from Ohio has 13½ minutes remaining, the gentleman from Illinois (Mr. CRANE) has 38 minutes remaining, and the gentleman from Michigan (Mr. LEVIN) has 19½ minutes remaining.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2½ minutes to my colleague, the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Mr. Speaker, as a member of the Committee on Veterans' Affairs, I would like to call attention to information which was recently published by The Center for Policy Analysis on Trade and Health regarding the Australia Free Trade Agreement.

CPATH's report explains that because chapter 15 of the U.S.-Australia Free Trade Agreement applies to Federal agencies like the Department of Veterans Affairs that procure pharmaceuticals, under the agreement drug companies would have the right to challenge VA procurement decisions. This would include VA decisions about coverage and pricing of pharmaceuticals. Virtually any aspect of coverage or pricing could be challenged based on technical specifications, timing, process, or any number of other agreements or disagreements.

For example, a drug company could claim the VA's decision not to offer a particular drug is the result of an unfair assessment of the drug's effectiveness or economic value. Under the trade agreement, the drug company could then file a complaint against the VA based on these claims. If the VA's procurement decisions are delayed,

routinely contested, or reversed on a regular or irregular basis, there could be a serious effect on access to and prices for medications for our veterans.

Before we vote on this free trade agreement, please consider this analysis and its potential effect on our Nation's veterans. It is a fact that the drug companies could challenge drug listing and pricing decisions by the VA. The government of Australia is not required to initiate or authorize these challenges. A drug company could do so. A drug company with an office in Australia could have standing to initiate such a challenge.

Now, it does not have to be this way. Many procurement decisions are already excluded by both Australia and the United States under this agreement, including motor vehicles, the dredging at construction sites, and so on. Important government programs that provide benefits to millions, including vulnerable populations, can be legitimately added to the list of excluded measures. It was not done in this bill, and America's veterans are at risk as a result.

It is important that before we vote on this trade bill that we read it and understand its potential negative effects upon America's veterans.

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

Australia is the eleventh largest market for Ohio goods exports, with total exports valued at around $389 million in 2003. Ohio primarily exports high-valued products to Australia, such as aircraft engines and parts, other aircraft parts, auto parts, forklifts, pet food, and household appliances. If the FTA was in place in 2003, over 93 percent of Ohio's exports would have entered Australia duty free.

Ohio's exports to Australia directly support approximately 1,854 jobs. Additionally, there are 17 Australian-owned companies in Ohio, employing 1,800 people, with 1,300 of these positions in manufacturing jobs. Trade with Australia supports countless other high-paying jobs in areas such as transportation, finance and advertising.

The Bureau of Economic Analysis reports that Australian businesses have more than $817 million invested in Ohio.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in strong support of the U.S.-Australia Free Trade Agreement.

Study after study shows, and history confirms, that nations that are open to trade grow faster and enjoy higher per capita incomes than those that hinder trade. That means better housing, better health care, and better nutrition for all Americans.

Mr. Speaker, we must recognize that nations do not trade with nations, people trade with people. By restricting trade, we are denying Americans access to more abundant and less costly goods and services. Just think about the local grocery store for a moment. Alongside the cheese from Wisconsin and beef from my home State of Texas, we have melons from Mexico, olive oil from Italy, and coffee from Colombia. By closing markets, by restricting markets, we limit choices for consumers and we drive up the cost of products that American families must purchase every day.

Mr. Speaker, more importantly, when we restrict trade, we deprive Americans of their fundamental economic liberty. I believe Americans have a right to determine which products they want to purchase and from where those products come. With the exception of national security, it should not be the role of the Federal Government to tell American consumers where they can buy their goods.

Also, when we restrict trade, we invariably put Americans out of work. We invite trade sanctions. Nearly one in every 10 jobs in the United States is directly linked to the export of U.S. goods and services.

Last year, my home State of Texas exported almost $730 million in manufactured goods alone to Australia. From agriculture to aerospace, to computers and chemicals, jobs in Texas and America depend upon trade, including trade with Australia.

Now, I have heard some Members talk about fair trade. But, Mr. Speaker, we must also remember that policies that protect some industries invariably hurt others; and protecting specific industries does nothing to protect the interest of American consumers or protect their economic liberties. I urge all of my colleagues to support the U.S.-Australia Free Trade Agreement.

Mr. LEVIN. Mr. Speaker, it is my privilege and pleasure to yield 2 minutes to the very distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I rise in support of the U.S.-Australia Free Trade Agreement and this bill we are considering today to implement it.

With few exceptions, I have historically opposed our free trade agreements because most of them have been negotiated with developing countries with insufficient labor and environmental standards.

Now, following my colleague from Texas, obviously, we have different views on this free trade agreement. One of the things I am proud of is that not only do most of these earlier trade agreements have inadequate labor and environmental regulations and lower the standard of living for people residing in those countries, which inhibits the ability for U.S. companies to compete, when I opposed previous trade agreements it has always been on the basis that we are putting ourselves at a competitive disadvantage against countries that have significantly lower standards of living.

However, this agreement with Australia is different. It puts the U.S. on a level playing field with a country that has comparable labor and environmental standards and a minimum wage that exceeds our own. I wish that were true with CAFTA and NAFTA and a whole bunch of other of our agreements.

This is fair trade, and this is the kind of agreement I can support. This agreement will immediately eliminate 99 percent of all tariffs currently imposed on U.S. exporters. With 93 percent of all exports to Australia coming from the U.S. manufacturing sector, this agreement is estimated to boost our manufacturing exports to the tune of $2 billion.

Without a doubt, there are parts of this agreement that I feel are less perfect. The agreement contains language allowing Australian pharmaceutical patent holders to prevent the export of their products to the U.S. market. In considering, though, that 90 percent of Australian drugs are currently prohibited from being exported by their law, I do not believe this agreement, in a practical sense, would hurt our current reimportation effort. However, I do make clear my opposition to the use of this provision as a precedent for future agreements.

I would also like to note labor's concerns with the agreement. While not out-and-out opposing the agreement, the AFLCIO has stated that the agreement is ineffective in protecting core worker rights in either the U.S. or Australia. As a former union printer, I take pride in working to strengthen labor rights in our own country; and I certainly agree that improvements can be made in our own country.

Yet, on the whole, both the U.S. and Australia have exemplary labor laws that, given our constitutional democracies, are not likely to reach levels that impose significant threats to the health and safety of our workers.

On balance, it is a fair agreement between two countries that value democracy, worker rights, and fair competition. It is not free trade. It is fair trade.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Illinois (Mr. WELLER).

Mr. WELLER. Mr. Speaker, I rise in support of the U.S.-Australia Free Trade Agreement, and I want to commend Ambassador Zoellick, the Special Trade Representative, and especially President Bush on the success of negotiating a good trade agreement that is good for American farmers, good for American workers, and good for American business.

My home State of Illinois is one of the top States that currently exports to Australia. As you know, Illinois manufacturers, like manufacturers throughout the United States, were hard hit by the recession back in 2000 and 2001 and of course faced the consequences of the terrorist attack of 2001 and, in my State, suffered even heavier taxes imposed by our new governor and our new State legislature.

But I am happy to say that today Illinois manufacturing is starting to see some positive health, and that is good news.

A key part of this economic turnaround is expanded trade opportunities. I would like to point out that my family has personally experienced the impact of our economy over the last decade. My brother, a manufacturing worker, he lost his job because of a lawsuit. But he got a new job because of a company that obtained an export contract. So, clearly, expanded free trade creates jobs for American workers.

I particularly want to congratulate the architects and negotiators that produced this U.S.-Australia Free Trade Agreement. I would note that in the Australia-U.S. FTA more than 99 percent of U.S.-manufactured exports to Australia will become duty free immediately upon entry into force of this agreement. This is the most significant immediate reduction of industrial tariffs ever achieved.

Let me say that again: the most immediate reduction of industrial tariffs ever achieved in a United States free trade agreement. That is good news for industrial workers. What that means is $2 billion in additional demands for U.S. products.

Agriculture is also key to my home State's economy, and I want to point out that under this agreement all U.S. agricultural exports to Australia will receive immediately duty free access to Australian markets. This trade agreement is good for Illinois farmers, it is good for Illinois workers, it is good for Illinois business, and it deserves bipartisan support. Please vote aye.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KUCINICH).

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

Mr. KUCINICH. Mr. Speaker, it is important whenever we talk about trade that we realize that the United States has a massive trade deficit of over $500 billion; and while the gentleman has been repeatedly citing the benefits to various States, my own State has lost 200,000 jobs during this administration. The United States, since the year 2000, has lost 3 million manufacturing jobs. So tell us about your free trade policies.

If this legislation were only about trade, I could spend the rest of the time demolishing the arguments that have been offered here about the advantages that this trade agreement offers, but there is something that we need to focus on. Like most things around this Chamber, what you see is not what you get.

The restriction on amendments imposed by Fast Track prevents Members of Congress from eliminating an extremely harmful precedent against lower cost pharmaceutical drugs set in the U.S.-Australia Free Trade Agreement. So my colleagues may think we are just voting about free trade here, but we are also voting on the issue of drug reimportation, because we cannot amend the trade agreement.

The administration was able to lay the groundwork, in the words of the trade representative, for thwarting the reimportation of lower-cost pharmaceuticals. That is because the U.S.-Australia Free Trade Agreement codifies current U.S. law which the administration has made sure prohibits drug reimportation.

So to all those people around the country who are wondering why can we not get lower price pharmaceuticals, this legislation is one of the ways in which they are going to ensure it will not happen. This is an element in the pharmaceutical industry's lobbying effort to keep prices high in the United States, and the administration has delivered for the industry at the cost of selling out Americans.

We can predict with 100 percent certainty that the Australia trade agreement's prohibition on drug reimportation will be replicated in subsequent trade agreements and that it will have the effect of making it impossible for the United States to change U.S. law because the trade agreements will threaten the U.S. with trade sanctions if Congress does allow drug reimportation.

This offense is so great and so threatening that this bill must be defeated. We must protect the ability to have drug reimportation.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume to simply remind all those paying any attention to the debate that we enjoy a $9 billion trade surplus with Australia at the present time, and that will expand greatly with the passage of this free trade agreement.

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

Mr. LEVIN. Mr. Speaker, I yield 2 minutes to a very distinguished colleague of mine, the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Mr. Speaker, I rise today in support of H.R. 4759, the U.S.-Australia FTA. This agreement is the most commercially significant bilateral trade agreement outside of North America that the United States has entered into. It also addresses several issues that we have concerns about dealing with labor, the environment, and human rights. Because of the strength and the size of Australia, we can deal and talk about rights that are respective for all.

Plus, for example, in the automotive sector, free trade between the United States and Australia will allow greater trade opportunities in auto products between our two countries. U.S. auto makers produce over 70 percent of all passenger vehicles made in Australia.

Other industries also benefit from this agreement: telecommunications, financial services, and our technological firms, with greater intellectual property protections.

Abroad, this agreement provides Australia with an opportunity to facilitate a higher quality of health care for its people. Though Australia has recognized the significant role played by innovative U.S. pharmaceutical companies in delivering high-quality health care, the problem of pharmaceutical price controls is still an issue. It is important that future trade negotiations more closely examine the possible impact of unfair trade practices that are shifting the cost of pharmaceutical research and development just simply to the American consumer.

Mr. Speaker, this is a momentous agreement and is worthy of strong support from this body, for this is not just a free trade agreement, it is indeed, in every sense of the word, a fair trade agreement.

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

Mr. BROWN of Ohio. Mr. Speaker, how much time do we each have?

The SPEAKER pro tempore. The gentleman from Ohio (Mr. BROWN) has 9 minutes remaining, the gentleman from Michigan (Mr. LEVIN) has 15½ minutes remaining, and the gentleman from Illinois (Mr. CRANE) has 32 minutes remaining.

Mr. BROWN of Ohio. In light of that, Mr. Speaker, I would suggest the gentleman from Illinois (Mr. CRANE) use some more of his time, because I am down to 9 minutes and the gentleman from Michigan (Mr. LEVIN) is down to 15. But perhaps the gentleman from Illinois would be willing to yield 5 minutes of his time over here, since he has no one to speak and we have so many speakers on this side.

Mr. CRANE. I am sorry I cannot yield my time, but I will, Mr. Speaker, use some of my time at the present moment.

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

Mr. Speaker, the administration strongly supports H.R. 4759, which will approve and implement the U.S.-Australia Free Trade Agreement as signed by the United States and Australia on May 18 of this year. The U.S.-Australia FTA advances U.S. national economic interests and meets the negotiating principles and objectives set out by the Congress in the Trade Act of 2002.

The agreement enhances our close trade relationship with Australia and will further open Australia's market for U.S.-manufactured goods, agricultural products, and services. As soon as the FTA enters into force, tariffs will be eliminated on nearly all manufactured goods traded with Australia. In addition, Australia will eliminate tariffs on all exports of U.S. agricultural products.

The U.S.-Australia FTA further solidifies our relationship with an important partner in the global economy and a strategic ally. It sets a strong example of the benefits of free trade and democracy. Opening markets is part of

the President's six-point plan for continuing to strengthen America's economy and to create more opportunities for American workers and farmers.

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

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PASCRELL), who has been a real leader on trade issues in the last few Congresses.

Mr. PASCRELL. Mr. Speaker, our Nation's trade policy is not so much a policy as an ideology, and those in the Office of the Trade Representative bow at the altar of free trade.

One way we can level the playing field in trade is to put labor and environmental standards on equal footing with other commercial sections, and why should that not be, such as intellectual property rights, patents, goods and services.

While the Australia FTA does a great job of mentioning the international labor organization and saying the right things, the proof is in the enforcement, and that is lacking in the legislation. The agreement's enforcement procedure excludes an obligation for both governments to meet the international labor organization or any other definable standard.

□ 1545

In the Jordan FTA, which many look to as a model of how the agreement should be written, we had input into that agreement. Labor and environmental articles used the same dispute settlement procedures as every other commercial provision. This is not the case under the Australia agreement.

Let us go to the videotape. Article 18.6.5 clarifies that the key pieces of chapter 21, dispute settlement, ''shall not apply to a matter arising under any provision of this chapter other than article 18.2.1.''

Excluding 18.1 and 18.2 from any possibility of dispute settlement or enforcement leaves the sole enforceable labor obligation in these agreements that countries need to ''enforce their own labor laws.''

This is terrible. And while Australia has a strong labor and environmental protection, what we are doing in this legislation is saying if we cannot add strong labor and environmental agreements with Australia, who the heck can we add it with? Then we are going to get a solid gold standard when it comes to property rights and commercial rights, but we are not willing to do it to labor and the environment?

This stinks, and you know it. And we are not going to pray at that altar.

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

Mr. Speaker, Australia is the 15th largest market for New Jersey goods exports, with total exports valued at nearly $307 million in 2003. New Jersey primarily exports high-valued products to Australia such as pharmaceuticals, printed media, medical equipment, perfumes, and chemicals. If the FTA was in place in 2003, 99.44 percent of New Jersey's exports would have entered Australia duty free. New Jersey's exports to Australia directly support approximately 1,400 jobs. Additionally, there are 13 Australian-owned companies in New Jersey, employing 900 people. Seven hundred of these positions are manufacturing jobs.

Trade with Australia supports numerous other high-paying jobs in areas such as transportation, finance, and advertising.

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

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota (Mr. POMEROY), my colleague on the Committee on Ways and Means.

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

I find this agreement to be somewhat of a close call. But where I come from we have an expression ''once burned, twice cautious.''

We are a major producer of wheat, and yet our farmers compete not just against the wheat farmers of other countries. In some instances, they compete against their governments as well, because their governments countenance a monopoly marketing mechanism called wheat board. When the Canadian Wheat Board was allowed to continue its operations in the Canadian Free Trade Agreement and the North American Free Trade Agreement, what unleashed upon our farmers was a dramatically unfair set of circumstances that have left them at a disadvantage and cost them markets and market value to the loss of millions and millions of dollars.

The U.S. Trade Representative has announced his opposition to state trading enterprises like the Canadian Wheat Board, but in this agreement we see the Australian Wheat Board, a very similar state trading enterprise, being allowed to continue without mention in the agreement. Unfortunately, this leads me to conclude this agreement should not go forward. We need more action against state trading enterprises.

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

I want to congratulate my colleague from North Dakota on his support for this Free Trade Agreement and also explain to folks that Australia is the third largest market for North Dakota goods exports, with total exports valued at over $47 million in 2003. North Dakota's exports to Australia include tractors, front-end loaders, beans, and agricultural sprayers. These exports support approximately 220 jobs in North Dakota. The Australia-U.S. Free Trade Agreement provides tremendous opportunities for North Dakota businesses, offering them preferential access to a strong economy and growing market. And I think the gentleman's folks back home will particularly appreciate his support, as do all the rest of us, for this important Free Trade Agreement.

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

Mr. BROWN of Ohio. Mr. Speaker, I am glad the gentleman from North Dakota (Mr. POMEROY) is voting ''no,'' also.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut (Ms. DELAURO), and I thank her for her leadership on trade issues and fighting for American jobs.

Ms. DELAURO. Mr. Speaker, the Australia Free Trade Agreement is for the most part a good agreement with a strong U.S. ally. But because it is becoming increasingly clear that the reimportation of prescription drugs from other countries is on the horizon, so much so that even the Secretary of Health and Human Services has said that it is coming, this administration, in cooperation with this majority, has included a provision into a bill designed to stave off the inevitable, this time interfering with the reimportation of a patented product into the United States in a trade agreement and setting a bad precedent for other agreements with western developed countries.

American seniors, fed up with discount cards that do nothing to reduce their drug costs, should not be fooled by this. The Republican leadership has failed to win the reimportation debate on every level. The American people disagree with them. Their own members disagree with them. Absent Republican support, this body would not have voted to legalize the practice last year with 243 bipartisan Members.

Putting any reimportation legislation passed by this Congress in violation of free trade is their goal in this agreement. It is not enough for the drug companies to do everything in their power to prevent the United States from lowering the cost of drugs. Now, through international trade laws, they are trying to cut off the ability of others to reimport safe, affordable drugs and the efforts of what other countries do for their citizens as well. So when the United States Trade Representative says that his core objectives in negotiating this deal were ''rewarding innovation and R&D'' and ''due process,'' what he is actually saying is that the drug companies should be able to keep their prices as high as they want for as long as they want in America and across the world.

Before we press ahead with this Free Trade Agreement offered under a closed, nonamendable process, I urge my colleagues to consider the very serious ramifications of this bill on every single person in this country struggling to keep up with the skyrocketing cost of prescription drugs. Absent allowing the Federal Government to negotiate the price of prescription drugs, the safe importation of drugs from other countries is the only way that ordinary people can afford the drugs they need. That is what is at stake with this legislation.

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

Mr. Speaker, I would like to reiterate a comment I made earlier from the Dear Colleague released yesterday by the gentleman from Michigan (Mr. LEVIN) and the gentleman from New York (Mr. RANGEL). And it says: ''The patent provision will not have a practical effect due to the fact that Australia's domestic law prohibits the export of drugs purchased through its government-subsidized program which accounts for over 90 percent of all drugs sold in Australia.''

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

Mr. LEVIN. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Speaker, I rise in strong support of this trade agreement, and I want to commend Ambassador Zoellick and his team at USTR for the negotiations of such a fine and fair agreement. I want to thank the gentleman from California (Chairman THOMAS) and the gentleman from New York (Mr. RANGEL), ranking member, and the gentleman from Michigan (Mr. LEVIN) and the gentleman from Illinois (Mr. CRANE) for the great work that they have done too.

There is never going to be an absolutely perfect trade agreement. But we can come close, and this agreement does. And if we cannot pass an agreement with one of our strongest allies who has been a partner with us in every challenge to try to provide for greater international security in the last century, whom can we be an economic partner with? If we cannot pass a fair trade agreement and a free trade agreement with a country that has the same level of economic development that we have in this country, whom can we adopt a fair trade agreement with? If we cannot adopt a fair trade agreement with a country that has higher labor standards, as equal or better environmental standards than we have in the United States, whom can we adopt a fair trade agreement with?

This is a solid agreement. It is an agreement that will provide greater economic opportunities for the workers in the United States and the businesses that employ them. We should be passing this agreement with a unanimous vote. It is unfortunate that we will get close but not quite there.

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

Mr. Speaker, I want to congratulate the distinguished gentleman from California (Mr. DOOLEY) for his commitment to these fundamental principles that are involved here in the best interest of this country as well as our good friend and ally Australia for all these years. I thank him.

□ 1600

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I would like to rise in very strong support of the Australian Free Trade Agreement. I do not think there is any country in the world that is more loved by Americans than the country of Australia, and I do not think there is any country in the world that can claim greater loyalty to this friendship than Australia and the United States to each other.

I would like to congratulate Ambassador Bob Zoellick for the fair and solid trade agreement with this longtime ally and, of course, our own President Bush for pushing forward. Also, I congratulate the Australian Prime Minister John Howard and Ambassador Michael Thawley on their commitment for also securing this agreement.

The Australian government has been a long-term friend to the United States through all the world wars and, of course, now in the war on terror and the other wars we have been involved in in Asia. They have been a staunch ally and a great friend, and I guess they are very similar to the Americans, having evolved in a similar way and having gained their independence.

I would like to now, for just a moment, to turn our attention to the effects this agreement would have on my own State of Florida. Florida exports shipments of merchandise to Australia. In 2003, it totaled $319 million. That is an increase of 12 percent from 2002. Florida ranks 10th in overall export shipments to the Australian market. Overwhelming amounts of Florida exports are in the manufacturing sector, a sector tremendously important to the United States and Florida. This agreement provides increased access for numerous other Florida sectors which have very positive impact on the State of Florida as well as the entire country.

I recommend and endorse this most important and most historic agreement, urge its passage; and as the previous speaker said, this should be a unanimous, if not near unanimous, decision that came out, as I recall, in the full Committee on Ways and Means with a unanimous vote, and it is one of the few truly bipartisan trade agreements that we have seen come through this House in recent years, and I urge its passage.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, I thank the gentleman from Ohio for yielding me this time.

I rise to express my disappointment that an otherwise strong Free Trade Agreement has been tainted by provisions designed to protect a captive market for the prescription drug industry in this country, forcing American senior citizens and taxpayers to pay higher prices than normal.

Australia has the lowest pharmaceutical prices anywhere in the world, of developed countries, that is, anywhere. I have supported NAFTA. I have supported GATT. I voted in favor of Singapore. I voted in favor of Chile. I believe in free trade. But what we attempted here was a back-door attempt to continue to force Americans to pay the highest drug prices anywhere in the world. And we had an opportunity to literally do something different with a good free trade agreement.

It all makes sense. Eli Lilly, Schering-Plough, PhRMA were all on the advisory board to the USTR when it came to negotiating this trade deal, and we are setting a precedent, forcing Americans again to continue to pay the highest pharmaceutical prices than anywhere in the world when we could have provided Americans the chance of a free trade agreement where we reopen markets, bring in competition, lower the prices around the world. But we did not do that. So we took an ally and tried to actually, in the negotiations, force them to walk away from their health care. One does not force a friend and ally to walk away from a good health care program who is paying lower prices for prescription drugs than anywhere in the world.

I will not support this agreement on behalf of the senior citizens of this country.

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

Mr. Speaker, I would like to remind my colleague that the Australian government prohibits the export of drugs from Australia. They subsidize drugs for their own people, and they prohibit the export of those drugs.

Mr. Speaker, I yield 2 minutes to another gentleman from Florida (Mr. MARIO DIAZ-BALART). This is not a repeat. This is his younger brother.

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I rise to comment on the exceptional relationship between Australia and the United States.

On this day that we are voting on this Free Trade Agreement, Mr. Speaker, we should take a minute to express our gratitude, our deep gratitude, to the Australians for their support in the international war on terror. Their support in the aftermath of September 11, Mr. Speaker, both in Afghanistan and in Iraq is a testament, a very strong testament, again to the strength of this alliance between the two countries. The Australians have also been touched, unfortunately, tragically, by terrorism when 88 Australians died in the Bali bombings of 2002.

Mr. Speaker, in friendship we will continue to reach out to them as they have to us. On this day we thank our mates down under for this friendship and commend them for their commitment to negotiating this Free Trade Agreement. Anyone, Mr. Speaker, anyone, who questions the strength of our alliance is, frankly, just out of touch or, to quote the famous slang used by our friends in Australia, they have ''too many kangaroos loose in the top paddock.''

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

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I am down to 4 minutes because of the passion on this side. I am the only opponent of the three, and it is pretty clear we are the biggest number of the House in the passion we share in opposition to this trade agreement.

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

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. HOYER), our distinguished whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time.

Mr. Speaker, this important Free Trade Agreement will enhance the already strong economic ties that exist between the United States and Australia. I support this agreement and will vote in favor of the required implementing legislation.

This pact has been called the ''manufacturing FTA'' because of the extent to which the United States manufacturing sector will benefit from the expanded market access provided by this agreement. Perhaps most importantly, Mr. Speaker, more than 99 percent of remaining Australian duties on U.S.-manufactured goods will be lifted the day the agreement takes effect. It is estimated that this immediate tariff elimination will result in an additional $2 billion in annual exports to Australia, already one of the world's largest single markets for U.S. goods. This improved market access will benefit American companies, ranging from aircraft manufacturers to automakers to construction equipment suppliers.

Manufacturers, however, will not be the only beneficiaries of this agreement. All U.S. agricultural exports to Australia will receive immediate duty-free access, and market access will be provided to American telecommunications, computer, energy, and financial services companies, among others.

Mr. Speaker, I have and will continue to support free trade agreements that balance the need for expanding markets for American companies with the importance of providing a level playing field for American workers and protection for the environment. We must consider the specific labor and environmental conditions that exist in the countries that we seek to trade with as well as the provisions included in the agreements to protect workers both here and in other countries and environmental concerns as well.

I am confident, Mr. Speaker, that these goals will be met with respect to Australia. Australia is almost a mirror economy of the United States; and, in that context, I think we can have real confidence that this will be an agreement that will benefit America, benefit Australia, and benefit our workers as well.

Mr. CRANE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM).

□ 1615

Mr. CUNNINGHAM. Mr. Speaker, I rise in full support of this agreement. First of all, many folks in the military that have traveled around the world, no matter where I have gone, where we needed allies, Australia has been beside us. Through all the world wars, through Desert Storm, through the continuing evolutions we are going through right now, they have been a strong ally. They deserve this.

I hear many Members talking about manufacturing jobs and the loss of manufacturing jobs. For California, this benefits our manufacturers, in biotech and electronics, machinery and a whole host of others, which creates jobs. That is good for us on a fair trade measure.

I also want to tell you that if you have ever been on an aircraft carrier and go into Australia, it is not much different than going into a city in the United States. Those people are friendly, they are allies, and they love the United States.

I heard when I was watching on television, though, about the issue on reimportation of prescription drugs. Many nations subsidize their drugs, like Australia, like Canada, like the Netherlands; and in those cases they will not reimport them because their own government subsidizes them for low cost. They have government control of their prescription drug programs.

We are working on a program to make sure that those imported drugs are safe. The Secretary has said that and is working diligently on it, and I think before long we will have a safe program where we can reimport drugs into this country and make them cheaper.

But I also remind my colleagues there are a lot of other things we can do locally to make sure that happens. The FDA, we threatened to privatize them at one time because they were so slow, and they sped up.

If you look at the patent laws that we have, quite often a biotech company will produce a drug, and they have got still people working in their businesses, and they do not know if they are going to be able to realize the benefits from that or not. It may take 2, 3, 4, sometimes 5 years to get through the process; and at the end of that, the patent law runs out, so they have to get an exorbitant price of that particular drug just to recoup their benefits.

These are things that I think we can do locally, besides the reimportation, and make it safe. There is no one that does not support it, if it is safe for the American population.

Mr. Speaker, I rise in strong support. I thank the chairman for the time and for bringing forth this bill.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from Toledo, Ohio (Ms. KAPTUR), who perhaps knows more than anybody in this body about international trade.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from Ohio, and I doubt anyone can hold a candle to him relative to trade.

Mr. Speaker, I rise in opposition to this trade proposal, in a way reluctantly. I had held such hope that this particular proposal could be the template for trade agreements that could be negotiated between the developed democracies of the world, and that following on the Jordan Free Trade Agreement, we could actually produce the first trade agreement between developed democracies that would provide the gold standard for the world, that we could really use proactively. This one falls far short of doing that.

You might ask the question, Would we have this agreement before us if Australia did not have troops in Iraq? It is kind of interesting that this is coming up at this particular moment.

One of my concerns about this agreement is that Australia may become another back door trade route to the U.S., sort of the new Hong Kong, because of all the current difficulties in Hong Kong NOW. This agreement is imperfect. It does not really provide a comprehensive set of provisions to really deal with trade between nations that want higher standards of living, but that in fact you will get more Chinese goods and Chinese investment going into Australia and then coming here under this so-called ''free trade'' agreement because of all the economic and commerical difficulties that Hong Kong is having since the handover to the Chinese.

We know that this particular agreement would allow drug companies to challenge decisions on coverage and payment, so we further weaken the abilities of developed democracies to try to provide affordable health care for all their people.

The agreement is absolutely inadequate in terms of comprehensive labor and environmental standards. We should accept no less. In fact, my dream would be that we would learn how to strike trade agreements between developed countries, and then ask third world nations to join that consortium in order to raise standards of living around the world, rather than force all nations in this race to the bottom, including our own, where wages among the majority have fallen.

Mr. Speaker, I include for the RECORD an article from the Wall Street Journal, ''Trade Agreement May Undercut Importing of Inexpensive Drugs,'' and also a set of standards we should use in any trade agreement based on a review of some of our other trade agreements. There standards should be expected from any trade agreement this Nation negotiates.

I ask my colleagues to vote ''no.'' This agreement is too incomplete and imperfect.

[From the New York Times, July 12, 2004]

TRADE AGREEMENT MAY UNDERCUT IMPORTING OF INEXPENSIVE DRUGS

(By Elizabeth Becker and Robert Pear)

WASHINGTON, July 11.—Congress is poised to approve an international trade agreement that could have the effect of thwarting a goal pursued by many lawmakers of both

parties: the import of inexpensive prescription drugs to help millions of Americans without health insurance.

The agreement, negotiated with Australia by the Bush administration, would allow pharmaceutical companies to prevent imports of drugs to the United States and also to challenge decisions by Australia about what drugs should be covered by the country's health plan, the prices paid for them and how they can be used.

It represents the administration's model for strengthening the protection of expensive brand-name drugs in wealthy countries, where the biggest profits can be made.

In negotiating the pact, the United States, for the first time, challenged how a foreign industrialized country operates its national health program to provide inexpensive drugs to its own citizens. Americans without insurance pay some of the world's highest prices for brand-name prescription drugs, in part because the United States does not have such a plan.

Only in the last few weeks have lawmakers realized that the proposed Australia trade agreement—the Bush administration's first free trade agreement with a developed country—could have major implications for health policy and programs in the United States.

The debate over the drug imports, an issue with immense political appeal, has been raging for 4 years, with little reference to the arcane details of trade policy. Most trade agreements are so complex that lawmakers rarely investigate all the provisions, which typically cover such diverse areas as manufacturing, tourism, insurance, agriculture, and increasingly, pharmaceuticals.

Bush administration officials oppose legalizing imports of inexpensive prescription drugs, citing safety concerns. Instead, with strong backing from the pharmaceutical industry, they have said they want to raise the price of drugs overseas to spread the burden of research and development that is borne disproportionately by the United States.

Many Democrats, with the support of AARP, consumer groups and a substantial number of Republicans, are promoting legislation to lower drug costs by importing less expensive medicines from Europe, Canada, Australia, Japan and other countries where prices are regulated through public health programs.

These two competing approaches represent very different ways of helping Americans who typically pay much more for brand-name prescription drugs than people in the rest of the industrialized world.

Leaders in both houses of Congress hope to approve the free trade agreement in the next week or two. Last Thursday, the House Ways and Means Committee endorsed the pact, which promises to increase American manufacturing exports by as much as $2 billion a year and preserve jobs here.

Health advocates and officials in developing countries have intensely debated the effects of trade deals on the ability of poor nations to provide inexpensive generic drugs to their citizens, especially those with AIDS.

But in Congress, the significance of the agreement for health policy has generally been lost in the trade debate.

The chief sponsor of the Senate bill, Senator BYRON L. DORGAN, Democrat of North Dakota, said: ''This administration opposes re-importation even to the extent of writing barriers to it into its trade agreements. I don't understand why our trade ambassador is inserting this prohibition into trade agreements before Congress settles the issue.''

Senator JOHN MCCAIN, an author of the drug-import bill, sees the agreement with Australia as hampering consumers' access to drugs from other countries. His spokesman said the senator worried that ''it only protects powerful special interests.''

Gary C. Hufbauer, a senior analyst at the Institute for International Economics, said ''the Australia free trade agreement is a skirmish in a larger war'' over how to reduce the huge difference in prices paid for drugs in the United States and the rest of the industrialized world.

Kevin Outterson, an associate law professor at West Virginia University, agreed.

''The United States has put a marker down and is now using trade agreements to tell countries how they can reimburse their own citizens for prescription drugs,'' he said.

The United States does not import any significant amount of low-cost prescription drugs from Australia, in part because federal laws effectively prohibit such imports. But a number of states are considering imports from Australia and Canada, as a way to save money, and American officials have made clear that the Australia agreement sets a precedent they hope to follow in negotiations with other countries.

Trade experts and the pharmaceutical industry offer no assurance that drug prices will fall in the United States if they rise abroad.

Representative SANDER M. LEVIN of Michigan, the senior Democrat on the panel's trade subcommittee, voted for the agreement, which could help industries in his state. But Mr. Levin said the trade pact would give a potent weapon to opponents of the drug-import bill, who could argue that ''passing it would violate our international obligations.''

Such violations could lead to trade sanctions costing the United States and its exporters millions of dollars.

One provision of the trade agreement with Australia protects the right of patent owners, like drug companies, to ''prevent importation'' of products on which they own the patents. Mr. Dorgan's bill would eliminate this right.

The trade pact is ''almost completely inconsistent with drug-import bills'' that have broad support in Congress, Mr. Levin said.

But Representative BILL THOMAS, the California Republican who is chairman of the Ways and Means Committee, said, ''The only workable procedure is to write trade agreements according to current law.''

For years, drug companies have objected to Australia's Pharmaceutical Benefits Scheme, under which government officials decide which drugs to cover and how much to pay for them. Before the government decides whether to cover a drug, experts analyze its clinical benefits, safety and ''cost-effectiveness,'' compared with other treatments.

Joseph M. Damond, and associate vice president of the Pharmaceutical Research and Manufacturers of America, said Australia's drug benefit system amounted to an unfair trade practice.

''The solution is to get rid of these artificial price controls in other developed countries and create real marketplace incentives for innovation,'' Mr. Damond said.

While the trade pact has barely been noticed here, it has touched off an impassioned national debate in Australia, where the Parliament is also close to approving it.

The Australian trade minister, Mark Vaile, promised that ''there is nothing in the free trade agreement that would increase drug prices in Australia.''

But a recent report from a committee of the Australian Parliament saw a serious possibility that ''Australians would pay more for certain medicines,'' and that drug companies would gain more leverage over government decisions there.

Bush administration officials noted that the Trade Act of 2002 said its negotiators should try to eliminate price controls and other regulations that limit access to foreign markets.

Dr. Mark B. McClellan, the former commissioner of food and drugs now in charge of Medicare and Medicaid, said last year that foreign price controls left American consumers paying most of the cost for pharmaceutical research and development, and that, he said, was unacceptable.

EXECUTIVE SUMMARY

NAFTA AND THE FUTURE OF GLOBAL TRADE

The North American Free Trade Agreement (NAFTA) is now ten years old. At its heart, it embodies the new heroic struggle of working men and women to gain a foothold in the rough and tumble global economy dominated by multinational corporate giants. Unfortunately, it pits local workers and farmers against global investors. It pits Neustro Maiz, a peasant tortilla co-op in southern Mexico, against ADM, the US grain trade giant. It pits Norma McFadden of Sandusky, Ohio, who lost her middle class job with benefits at Dixon Ticonderoga, against Ana Luisa Cruz of Cuidad Juarez, who earns $7 a day with no benefits. For NAFTA to be credible as a model for future trade agreements, it must be amended. People should be more important than goods. A human face to trade must be negotiated. Without it, the global divide between poverty and wealth will exacerbate. More popular unrest will result from unfair trade, and the social compact so necessary for global cooperation will be shattered.

NAFTA is important because it serves as the major template for a new global economic order integrating rich and poor nations through trade and investment. Mexico, Canada and the U.S. were to integrate their economies and, as a result, be better positioned to compete globally. It was touted as the neo-liberal model that would lift the economic condition of all people. All ships, no matter how small, were to be brought forward. But NAFTA worked exactly in the reverse. Affected workers in all three nations saw their wages and working conditions lowered. As capital moved across borders with no social policies in place, NAFTA has triggered an international race to the bottom as even Mexico has lost 218,000 jobs to China, a lower wage environment with a notorious record of human rights abuses.

Capital and wealth have become more concentrated in all three nations. The middle class in the U.S. is experiencing a growing squeeze on benefits and job quality. In Mexico, an endless supply of ''starvation wage'' workers was unleashed. Now the Bush Administration is trying to spread the same model to Central America using Central American Free Trade Agreement (CAFTA), and throughout the rest of the Western Hemisphere with the Free Trade Area of the Americas (FTAA). If these agreements are passed, it is clear that only the same can be expected, that is, expanding job washout, underemployment, and trade deficits in the U.S. without improved living standards in the poor countries with whom it trades.

A reformed trade model among trading nations is needed that yields rising standards of living for workers and farmers. This must be based on transparent and enforceable rules of law concerning labor, environment and business. Continental sustainable wage and labor standards should be adopted. Trade accords must also incorporate industrial and agricultural adjustment provisions, and currency alignment. An infrastructure investment plan should be negotiated as a core provision of any trade agreement. Along with complementary systems for education and safe, reliable medical care for all of their citizens, including the over 9 million immigrants traveling as itinerant labor to the U.S. every year.

RECOMMENDATIONS

Policy reforms are essential to amending NAFTA and other trade agreements that have yielded such huge U.S. trade deficits, job washout, and lowered standards of living.

A CONTINENTAL ASSESSMENT OF NAFTA SHOULD BE LAUNCHED TO ADDRESS ITS SHORTCOMINGS

An intracontinental parliamentary Working Group on Trade and Working Life in America, comprised of U.S., Mexican, and Canadian members, should be established with the goal of amending NAFTA to address its shortcomings. Such a working group should analyze the results of NAFTA and its impact on workers, farmers and communities. The Working Group should define a sustainable wage standard for workers in each country and a continental labor registration system along with enforceable labor and environmental standards. It would identify the massive continental labor displacements that are occurring, often with no social safety net in place. It would explore options to deal with divergence in education and health as well as currency fluctuations and impact of trade on infrastructure, investment, and migration. It would harmonize inequitable tax systems and augment credit systems for the safe and non-usurious continental transfer of remittances by mobile workers. It would also propose funds in the form of adjustment assistance to cushion continental economic integration. The organization would include as a key component an intracontinental Agricultural Working Committee to address the hardships faced by farmers and farm labor in all three countries.

TRADE AGREEMENTS SHOULD YIELD TRADE BALANCES

If NAFTA were working in the interests of the U.S., there would be a trade surplus with Canada and Mexico, as the U.S. exported more than it imported. Exactly the reverse is true. In 2003, the NAFTA trade gap equaled $100 billion—$42 billion with Mexico and $85 billion with Canada. This represents a serious drag on U.S. gross domestic product and a loss of wealth. Indeed the U.S.-NAFTA trade balance with low-wage Mexico as well as Canada has turned decidedly more negative, and worsened each year, contrary to NAFTA's stated aims. When a trade agreement yields major and growing deficits for more than three years, it ought to be renegotiated.

DEVELOP AN ALTERNATIVE TRADE BLOCK PARADIGM

Trade agreements must be structured to achieve rising standards of living for a broad middle class, not just the capital class. The current NAFTA model fails to address the root causes of market dysfunction and growing U.S. trade deficits i.e., the managed market and regulated trade approaches being employed by its European and Asian competitors. With NAFTA, the U.S. chose a low wage strategy to meet this real competition from trading counterparts that were gaining global edge. The U.S. must counter the managed market and regulated trade approaches of its major competitors.

HARMONIZE QUALITY OF LIFE UP, NOT DOWN

Rather than allowing transnational companies to set the rules of engagement, democratic nations first should forge international trade agreements with the world's developed democracies and then invite in developing nations to participate in this ''free world'' Global Trade Organization. Such an effort holds the potential to transition these nations upward to the same democratic, legal, and environmental systems of the free world. Instead, the trade relationships that have been forged link the economic systems of first world democratic nations to Third World, undemocratic, non-transparent systems. Social concerns like education, environment, infrastructure, labor conditions, and health have been ignored. The downward ''race to the bottom'' push of NAFTA continues to be felt in the U.S. as well as Mexico and Canada.

TRADE ACCORDS SHOULD PRODUCE LIVING WAGE JOBS, LESS POVERTY AND AN IMPROVED ENVIRONMENT

If NAFTA were working, more good U.S. jobs would be created, outnumbering job losses. In Mexico, workers would experience a rising standard of living. Exactly the opposite is true. Conservative estimates indicate the U.S. has lost 880,000 jobs due to NAFTA. These jobs are largely in U.S. companies that merely relocate to Mexico paying ''hunger wages.'' Wages in Mexico have been cut by a third. If NAFTA were working in the interest of Mexicans, there would be a reduction in poverty, a growing middle class, and environmental improvement. Instead there is a rollback in wages, deplorable working conditions, and growing economic concentration of wealth in a few hands, forcing huge social dislocation.

As U.S. jobs are sucked into Mexico, not only do more people vanish from the middle class but also U.S. schools lose property taxes. In a state like Ohio that has lost nearly 200,000 jobs to Mexico, the economic decline is visible. Ohio's income growth is declining. In 1999, according to Ohio Department of Development statistics, citizens in Ohio lost $30.7 billion in total income compared to the past year. The state itself lost $15 billion. As a result, college tuition has increased, with average student undergraduate debt rising to record levels of $18,900. Nursing homes are understaffed with low paid workers, and the ranks of uninsured Ohioans has risen to 1.3 million. The State is raising taxes on everything from sales, to gas and to property to try to fill the gap of a fleeing private sector. Quality of life is sliding backwards. NAFTA-related environmental enforcement remains largely nonexistent. If NAFTA were working, environmental improvement in Mexico would be upgrading; it is sliding backward.

Transition U.S./Canadian displaced workers to comparable employment and Mexico's workers and peasants to land holding and living wage standard.

NAFTA—displaced workers in the U.S. largely have been abandoned in their efforts to reposition to new employment. Unemployment benefits expire, training is inadequate, and health benefits expire or are unaffordable. Experienced workers rarely find jobs with comparable pay or benefits. Mexico's vast underclass, underpaid, and exploited, lacks a living wage, affordable elementary education, basic health care, and systems to gain property ownership and affordable credit even for basic purchases. In order to move forward with any future trade agreements, NAFTA must acknowledge its human toll and respond accordingly. NAFTA provisions have led to the displacement of thousands of small business, industrial and agricultural workers throughout the U.S., Mexico and Canada. Little provision has been made to assist these workers, farmers, and communities with any transitional adjustment assistance. In Mexico, this has caused masses of people to stream toward the border and the maquiladora zones in search for jobs.

The North American Development Bank, which was established to help local communities build their human and physical infrastructures, has been an abject failure. It should promote economic investment in those regions of Mexico and the United States where jobs have been hollowed out due to NAFTA, or infrastructure is needed. Bank assets could be enhanced by financial contributions that flow from trade-related transactions.

Create new continental law enforcement body to combat growing crime along U.S.-Mexico border region related to border workers, drugs, and unsolved murders of hundreds of Mexican women.

The United States Departments of Labor and Homeland Security should be tasked not only with stopping the trafficking of bonded laborers but devising a continental labor identification card. Along with mass migration, the border has seen an explosion in the illicit drug trade. Law enforcement officers on both sides of the border must battle smuggling in narcotics and persons. A continental working group should be directed to recommend a new solution for combating crimes that result from the illegal drug and bonded worker trade that spans the border.

Mr. CRANE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Arizona (Mr. KOLBE).

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

Let me begin by saying to the gentleman from Illinois that I want to congratulate him and thank him for his leadership in the area of trade. Through the years, there has been no one in this House that has been a more stalwart proponent of opening markets abroad and in the U.S. to trade, and I think that his leadership has done a great deal to improve the lives of Americans. So I congratulate him on bringing this agreement to the floor.

I do rise in strong support of this agreement with Australia. I think it is worth noting that this is the first free trade agreement we have had with an industrialized nation in 17 years. It is an important trade agreement. It is one that demonstrates how U.S. leadership in international economic policy is continuing to expand free trade on a worldwide basis.

The amount of trade between the United States and Australia is substantial—$29 billion—which makes it the ninth largest trading partner of the United States: $19 billion of that amount reflects trade in agricultural and industrial production, and $9 billion, the fastest growing part, is the trade in services. Our exports to Australia include transportation equipment, notably aircraft and engine parts, telecommunications equipment, measuring instruments, internal combustion engines, and computers and all the components that go into those computers.

Mr. Speaker, I urge my colleagues to support this agreement. It is an agreement that is critically important for consumers here, for our families, and for workers here in the United States. Free trade with Australia helps to keep inflation rates low. It provides opportunities for a better quality of life for the U.S. worker and families through lower prices of imported goods.

We are pursuing this agreement in our national economic interests. But, without doubt, it also serves our national security and our foreign policy interests as well.

Let us make no mistake about it, and the gentlewoman from Ohio alluded to this: Australia has been a friend; it has been an ally in this war against terrorism. In the aftermath of the September 11 terrorist attacks, this ally has provided some 1,550 soldiers and military equipment to support the U.S.-led coalition to combat terrorism. Australia has contributed generously to the coalition effort to disarm Iraq by sending to Iraq fighter jets, transport aircraft and ships, reconnaissance forces, and dive team members.

So I want to commend Ambassador Zoellick and the team at USTR and the administration for successfully negotiating what I think is an important free trade agreement. It is not perfect. Members like myself would have wished to have increased market access for Australian exports of sugar. But, nonetheless, this is a good agreement and a significant accomplishment, and I urge my fellow Members to vote ''yes'' on this agreement.

Mr. LEVIN. Mr. Speaker, I yield myself 9 minutes.

Mr. Speaker, I want to mention right at the beginning that the gentleman from New York (Mr. RANGEL) wished to be here. We share a very similar approach to this issue. But he had to leave to go to New York for a funeral, so he could not be with us.

This administration's economic policy, in a few words, has been a miserable failure. I have joined with others in opposing key parts of their approach to trade. I helped lead the fight against their Trade Promotion Authority and for our own alternative, and we have helped to point out time after time their lackluster record on enforcement.

In a word, we have opposed the administration for using a one-size-fits-all, a blind, a cookie-cutter approach to trade policy. I do not think it works for us to respond with our own cookie-cutter approach to trade.

So we have before us a specific agreement. It has some very important, positive features to it. For manufacturing, right now, 93 percent of the total value of goods that we send over to Australia are in manufacturing, and duties on more than 99 percent on these goods will be eliminated. This has real implications for autos and auto parts, for construction equipment, for electrical equipment, for appliances, for furniture, for information technology, for medical and scientific equipment. Also, there are important provisions here for agriculture. Australia will eliminate immediately all of their tariffs on food and on agriculture.

Let me say, though, despite these provisions, and there are some important provisions regarding services, I would vote against this bill if I thought it either undermined our position, our efforts, our commitment on core labor standards, or our firm commitment on the reimportation of drugs.

As to labor standards, Australia uses the standard ''enforce your own laws.'' That can work for countries that have solid laws that meet ILO standards and enforce them. That was the standard, ''enforce your own laws,'' in Jordan; and it worked because those standards are in their laws and they enforce them. It is the case in Australia.

I think the best approach is to say what will work for Australia will not work for nations with very different conditions. We will never agree to one-size-fits-all, to a blind application of provisions; and that is clearly true in terms of labor standards in Central American nations.

We on this side overwhelmingly, and I hope the same is true of many over there, will not vote for a CAFTA with a standard that would ratify very unsatisfactory conditions for their workers, for their nations, for our workers and our Nation, and can only lead to a race to the bottom.

As to prescription medicines, we were very concerned about this issue. A number of us, led by the leader, the gentlewoman from California (Ms. PELOSI), the gentleman from New York (Mr. RANGEL), the gentleman from Maryland (Mr. HOYER), the gentleman from California (Mr. STARK), the gentleman from California (Mr. MATSUI), and others, as I look at the letter, opened up this question with our USTR in our letter of January 15.

Here is what we said: ''We are writing as members of the Democratic leadership of the House and senior members of the Committee on Ways and Means to express serious concerns about the administration's effort to modify Australia's National Pharmaceutical Reimbursement Program as part of the negotiations of a free trade agreement with Australia.''

We said in conclusion, ''Given these concerns, we urge you,'' this was a letter to the President, to the USTR, to Mr. Zoellick, ''to withdraw the proposal that would, in essence, interfere with their structure and would replace it with one that is derived after a meaningful dialogue with Congress.''

Australia resisted this effort by USTR. We supported Australia's resistance. That approach was, in essence, withdrawn; and it is not in this agreement.

Then as to prescription medicines, there is the issue of whether it forces changes in the law of Australia. We asked the ambassador from Australia to tell it straight, and here is what he said. We wrote it down. It reiterated today what he said earlier: ''In neither case with respect to listing or pricing decisions will we be changing Australian legislation. We are not changing the methodology for evaluating the effectiveness and the pricing of drugs. We are making changes to the process to allow greater consultation and transparency, to make the process more timely and to allow an independent review of the decision by the Pharmaceutical Benefits Advisory Committee. The final decision to list a drug, including the price, remains with the Minister for Health. Let me also refer briefly to the issue of whether it will force any other changes, and I think the answer is basically no.

Mr. Speaker, let me address the issue of reimportation for just a minute.

□ 1630

Australian law, as has been mentioned, prohibits the export of any drug that is subsidized by their system. That is 90 percent of their drugs. What was placed in this FTA was the laws of this country that relate to patents, including pharmaceutical drugs, but all other patents. I think it was a mistake to include it in this FTA. However, it has no practical effect in terms of reimportation because of the Australian system and their prohibition on the export of any drug that is subsidized. They do not want their subsidization to benefit us here in the United States.

So if we follow the principle that we will look at each agreement on its own, if we follow that principle, I think we will then approve Australia, we will approve this FTA, but we will make it very clear that if that provision is placed in another FTA where the conditions are very different and it could affect, practically speaking, reimportation of drugs to the U.S., we will do the same vis-a-vis such effort as we are going to do as to CAFTA, strongly oppose it, because we do not want provisions in one agreement placed in another where the conditions are very, very different and where there would be injury to the interests of the United States.

So, in a word, I do think, because of the positive provisions in this FTA relating to manufacturing, agriculture services, that we should approve this agreement. However, in doing so, it has to be absolutely clear: Do not use the standard as to core labor standards elsewhere where the conditions are different, and do not dare for a minute use this in any fair trade agreement which would actually inhibit our changes in law on reimportation.

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

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I rise in support of this agreement.

Over the years, Australia has been a terrific friend of the United States of America in every way. Over the years, I have restated my commitment to free trade between free people, and I can think of no better example of two free nations establishing open commerce between themselves than this suggestion that we have free trade with the people of Australia.

Moreover, Australia has been a stalwart ally in the war on terror, and they have been with us all the way when much of the rest of the world was against us.

Unfortunately, the authors of this bill decided to construct it in a fashion that will restrict the right of the

American people to purchase reimported, American-made prescription drugs in this bill and in future trade agreements.

Well, I happen to be a strong supporter of America's access to reimported, American-made prescription drugs, but I am also supportive of free trade between free people, and I am also a grateful American for the friendship that has been shown us and demonstrated by the people of Australia. I would like to express my frustration with the administration and with our leadership for making what would have been an effortless vote on my part into a much more difficult decision. They cannot count on me in the future for votes on free trade agreements that include this provision.

But, in terms of this vote today, we owe it to our Australian friends. They have been with us through thick and thin, and this vote today and this free trade agreement is our way of saying to our Australian friends, thanks, mates.

Mr. BROWN of Ohio. Mr. Speaker, I continue to reserve my time waiting, I believe, for the gentleman from Illinois (Mr. CRANE) to close if he would like.

Mr. CRANE. Mr. Speaker, I yield 10 minutes to our distinguished colleague, the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

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

Mr. DREIER. Mr. Speaker, I rise in strong support of this legislation.

I would like to take a few minutes to first follow up on the discussion that we had at the opening of the rules debate this morning on the House floor.

One of our colleagues, I do not remember exactly who it was, I think it may have been my friend, the gentleman from Michigan (Mr. LEVIN), talked about the fact that there had been no consultation on the issue of this pharmaceutical drug reimportation issue; and I said at the time that I was going to get some information on the consultative process which took place as it relates to the free trade agreement, and it does include a great deal of discussion on the issue of the pharmaceutical question.

The administration, as I said this morning, held extensive, extensive consultations with Congress on the Australia Free Trade Agreement. There were, in fact, 29 briefings that were held with the Committee on the Judiciary and members of the Committee on Ways and Means on the FTA. There were actually eight briefings that were held specifically on the pharmaceutical question in a bipartisan way, and they related directly to the intellectual property rights issue, which is an important question.

So this argument that somehow there was no consultation with the Congress on the issue of the pharmaceutical question is a specious one. Actually, Members and staff who have clearances received the text on the intellectual property rights issue, which included patent provisions, in March of 2003, 16 months ago. So I think it is important for us to note that there has been an important process that took place.

My good friend and fellow Californian (Mr. ROHRABACHER) was just here in the well, and I know that there has been, again, some confusion on this issue of whether or not the free trade agreement itself somehow includes a provision that would prevent the United States Congress from dealing with the reimportation issue. I will say right now what I said this morning when we were debating the rule: There is absolutely nothing whatsoever in this legislation that regards the issue of drug reimportation.

What I would like to do is say that the free trade agreement has nothing in it, the implementing language has nothing in it at all. Any law that the United States Congress passes always will trump the free trade agreement. So the very important thing that we need to realize is that our Constitution grants us that authority. So the patent provision in the free trade agreement restates U.S. law and applies to all patents, not just pharmaceuticals. Not including this provision would be devastating to the U.S. intellectual property rights holders in every sector of our economy, including pharmaceuticals.

I know my friend, the gentleman from California (Mr. ROHRABACHER), is a great screenwriter. It would include, obviously, intellectual property when it comes to our very important entertainment industry as well.

Australian law states, already states that there is a ban on the exportation of drugs dispensed under the PBS, the Pharmaceutical Benefits Scheme that exists. Unlike Canada, Australian law explicitly prohibits other parties such as a wholesaler or a pharmacist from exporting nonPBS-dispensed drugs. That is Australian law. It has nothing whatsoever to do with the free trade agreement itself.

So I think we need, and I am happy that my friend is going to be supportive of this legislation and was going to be supportive earlier, but now what I want him to know is that he can be an even greater enthusiast in support of this now that we realize that there is nothing in this free trade agreement that deals with the issue of drug reimportation.

Now, let me just make a couple of comments on some things that had troubled me.

First, and this does not trouble me at all, it is simply praise for the gentleman from Illinois (Mr. CRANE), the chairman of the Subcommittee on Trade. He educated me and a lot of others over the years on the importance of trade liberalization. Trade liberalization, breaking down barriers, does enhance opportunities for the free flow of goods, services, and capital and how that improves the quality of life worldwide. I learned so much of that from the gentleman from Illinois (Mr. CRANE). He has been a great teacher on it.

The thing that has concerned me about this debate today is that some are trying to use the U.S.-Australia free trade agreement as an argument in opposition to other agreements. It is true that with Australia we have a very similar economy, and that is something that is important for us to recognize. It is also true, as my friend, the gentleman from California (Mr. ROHRABACHER), and others have said, and I said when I was standing here this morning, that the alliance between Australia and the United States of America is an extraordinarily important one.

Prime Minister Howard was here on September 11 of 2001. He was going to be addressing a joint session of Congress, and he was here when President Bush addressed the Congress, and he stood with us consistently. In fact, he actually has used this term, he describes Australia as the sheriff for the United States of America. And it does underscore the importance of this agreement, how it will go even further in strengthening this critically important tie.

But as we look at the Australia agreement, how we can all of a sudden say the trade liberalization with countries that are trying to claw themselves onto the first rung of the economic ladder, how we did oppose those based on the fact that we have one structure with the U.S.-Australia agreement, is to me something that is very, very troubling.

I happen to be a strong proponent of the Central American Free Trade Agreement. I believe that it is critical for us, as the trade ministers, all the trade ministers said to me upstairs in the Committee on Rules just several weeks ago from five Central American countries, that to lock in democracy in Central America, to make sure that we improve the standard of living for the people of Central America, we must have the Central American Free Trade Agreement.

Now, many of us were in Seattle. I know I was there with my friend, the gentleman from Michigan (Mr. LEVIN), in December of 1999, the first week of December, 1999. We all know how that meeting fell apart. And I will never forget the cover of The Economist magazine, that great publication which, for a century and a half, has focused on the issue of trade liberalization as its priority. The cover of that magazine the week after the ministerial meeting broke down in Seattle had a picture of a starving baby in Bangladesh with the caption: ''Who was the real loser in Seattle?''

The reason is that it is important for us, if we are committed to making sure that these developing nations do, in fact, have an opportunity to succeed and, as I said, get onto the first rung of

the economic ladder, we need to work on trade liberalization with them. We need to help them find new opportunities to participate in the global economy. So that is why this is a very good agreement; and, similarly, other free trade agreements that we are going to be putting together that will break down barriers and encourage that free flow of goods and services and capital is something that we absolutely must continue with.

So, yes, we are going to have strong bipartisan support for this measure, but equally important and, in some ways, maybe even more important, Mr. Speaker, we need to have strong bipartisan support when it comes to these further agreements. Why? Because there are countries in this hemisphere and in other parts of the world that would love to have economies like Australia's or like the United States of America, and I happen to believe that the only way that we are going to create an opportunity for them to enjoy the wonderful standard of living that exists in both Australia and the United States of America is for us to have them enjoy the opportunity to participate in our global economy.

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So I herald my colleagues who are going to be supporting this. I hope that everyone plays a role in understanding that this is part of our being on the cutting edge of the 21st century global economy. I congratulate President Bush for the leadership that he and Ambassador Zoellick have provided on this issue and my colleagues on both sides of the aisle for doing it. I look forward to a very, very strong vote in just a few minutes.

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

Mr. LEVIN. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is a short time to talk about a trade bill, but I thank the distinguished gentleman from Michigan for his hard work, all of the Members that are on the floor.

Let me speak very quickly. I look forward to a Congress, hopefully Democratic-controlled, that will have the kind of oversight that will allow us to write the trade bills that answer all of the concerns of Americans, but let me just say this. The work that has been done on this bill leads me to believe that we can at least get started in support of this legislation.

One, I am sure that the indigenous population in Australia is one that is going to be addressed, that they are looking to enhance their educational opportunities, and I am going to be monitoring it myself. I do believe that it is important to state that the present status of reimportation is not precedent; and even if we vote on this legislation, it will not be used against us in the whole concept of providing cheaper drugs for Americans.

I am very glad to say that there are no immigration provisions on there, because no treaty should allow back-door immigration policies like the Chilean trade bill and the Singapore trade bill.

And then I would say although it is not perfect, and I want to say to my labor friends, you are absolutely right, and when we get the kind of Congress that ensures that we have strong labor laws, we will be able to write these good bills; but I am glad to say that Australia does have its own worker-protection legislation. With that, I would say that this bill provides us an opportunity to make a positive statement, and in Texas we have got $749 million in trade in Texas.

Mr. Speaker, I rise in support of the U.S.-Australia Free Trade Agreement, H.R. 4759 because of the economic benefits that it will bring for both signatories of the agreement. During insecure economic times it is vital that we give free trade agreements such as this close scrutiny. While I have certain reservations about this Agreement, specifically the fact that workers rights protections are not as extensive as those given for intellectual property, I am giving my support to Australian Free Trade Agreement in the hopes that more Americans jobs can be created as a result.

My support for this bill of implementation goes with the hope that it will not bring with it some of the negative implications that the Chile and Singapore agreements brought. I voted against the U.S.-Chile Free Trade Agreement, H.R. 2738 and the U.S.-Singapore Free Trade Agreement, H.R. 2739 in July of last year partially based on the impacts that will be made on employment in the United States.

My support for the Australian Free Trade Agreement is largely based on the fact that there are no back-door immigration provisions included in the bill. The Chile and Singapore agreements however, will create a new class of temporary entry visa for "professional" workers. As Ranking Member of the House Judiciary Subcommittee on Immigration and Claims, this substantial change to the current immigration laws concerns me. Certain classes of workers—some 5,400 Singaporean and 1,800 Chilean immigrants would be eligible for this visa which would be indefinitely renewable. The H1–B rules that limit the duration and renewability needed to be applied to these agreements in order to preserve the consistency of our immigration policy. Additionally it is important to note that Texas does over $740 million dollars in export business with Australia thereby creating JOBS in Texas!

I also found the lack of parity between the enforcement of labor laws in the U.S. and in Chile and Singapore to be troubling because it would leave our workers vulnerable to harsh and inhumane labor standards.

Fast Track legislation has not required the president to include enforceable protections for the environment and workers' rights in our trade agreements, lacks adequate procedures for consultation with Congress and the public, harms independent farmers and limits democratic debate about trade policy.

The U.S.-Australia FTA is between industrialized nations; two countries with many similarities in terms of their stage of economic development. This is true of the important manufacturing sector, and therefore the reductions in tariff levels should provide many mutual benefits. Australia has also made important commitments in the area of copyright and trademark protections which will safeguard digital content and promote Internet technologies.

In the area of internationally-recognized core labor standards, the FTA adopts a standard for each nation to effectively enforce its own laws. While I do not support this model, I believe the structures in Australia, and importantly, the history and experience in this area, including a substantial percentage of Australian workers in unions and covered by collective bargaining agreements, are strong enough to ensure fair competition and a substantial middle class for the benefit of Australia and as a market for U.S. goods and services.

History has invariable shown that the status of internationally-recognized labor standards is a critical factor in a nation's economic development, in the spread of benefits to a broad spectrum of its citizens and in reducing serious income disparities which is essential to the development of a middle class.

Unfortunately, the Administration continues to pursue trade agreements with countries in very different stages of economic development than ours using the same model for labor standards. Their one-size-fits-all approach to trade agreements generally, and labor standards specifically, is driven by their outdated view that more trade is always better, no matter the terms and content of the trade, ignoring the stark realities of globalization.

As long as the Bush Administration continues to ignore these realities, they will find success only in smaller agreements such as Australia and continue to fail U.S. workers and businesses in the larger or more difficult FTAs (i.e., CAFTA, FTAA), in the multi-lateral World Trade Organization (WTO) negotiations, and in addressing the skyrocketing trade deficit with China.

Lastly, I want to make it very, very clear, the prohibition of the reimportation of prescription drugs is not supported by my vote—and should not be taken as support for this precedent!

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

Mr. LEVIN. Mr. Speaker, I yield myself ½ minute.

Two quick comments. The gentleman from California (Mr. DREIER) says that U.S. law will always trump a trade agreement, but it could create a violation of the trade agreement. In this case a violation is theoretical, but do not try the approach in a very different case.

Secondly, to the gentleman from California (Mr. DREIER), a race to the bottom does not help the people in developing nations or this Nation. That is why we want different agreements for different situations.

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

The SPEAKER pro tempore (Mr. HASTINGS of Washington). The time of the gentleman from Michigan (Mr. LEVIN) has expired.

Mr. CRANE. Mr. Speaker, I yield such time as he may consume to the

gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me the time, and I would simply say that we all want to ensure that we do not see an engagement in the race to the bottom. That is not a goal that we have at all. What we want to do is we want to have in place policies, and the so-called race-to-the-bottom argument is one which was used as we were looking at the passage of fast track several years ago.

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

Mr. DREIER. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Speaker, I would say to the gentleman from California (Mr. DREIER) enforcing your own laws in a situation where the laws are inferior and unenforced will lead to a race to the bottom.

Mr. DREIER. Mr. Speaker, reclaiming my time, let me say that we all want to do everything that we can to ensure that we do not engage in a race to the bottom. What we want to do is we want to make sure that we engage in a race to the top; and to get to the top, there are many countries that today may not be able to comply with every single standard that developed nations like Australia and the United States of America enjoy, and it is for that reason that we need to ensure and recognize that the best way for them to be able to qualify for that status is to see the economies of those countries grow.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself my final 2 minutes.

Mr. Speaker, I enjoy hearing the gentleman from California (Mr. DREIER) talk about a world of trade that never quite ends up the way that we promise in this institution.

For 3 years in this Congress with this President, we have turned our government over to special interest groups. The Medicare bill was written by the insurance industry, the drug industry. Social security privatization legislation was written by Wall Street. Energy legislation has been written by Enron and Halliburton. Environmental legislation has been drafted by the chemical companies. And now trade legislation again has been written, in these provisions that we have talked about, by the drug companies.

If you think that the prescription drug industry has too much influence in this Congress, if you think the prescription drug industry has too much influence on the Medicare bill, too much influence with FDA, too much influence on trade policy, then vote ''no'' on this U.S.-Australia F'TA.

If you do not trust the Bush administration to stand up to the drug companies and you do not trust the Bush administration to work for lower prices, then vote ''no'' on this U.S.-Australia FTA. If you care about reimportation and close to 300 Members on both sides of the aisle, 300 Members of this body do care about reimportation, if you in fact do, then vote ''no'' on U.S.-Australia F'TA.

And if you want to send a message to this Congress, if you want to send a message to the President and to the USTR that we should not allow the drug industry to write trade law in this country, then vote ''no.''

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

I would like to just reiterate in closing that this is an important agreement, and Australia is a close ally and friend of the United States. As the Australian Trade Minister Mark Vaile has said, this FTA is the commercial equivalent of the ANZUS treaty on security issues signed in 1951. This agreement represents the best F'TA ever negotiated regarding industrial products, over 99 percent of which will become duty free immediately. And it is estimated that U.S. exports to Australia support more than 150,000 jobs currently. And in addition, Australian farms in the U.S. employ over 85,000 Americans. The U.S. already enjoys a $9 billion trade surplus with Australia, and this agreement is clearly in our national interest; and I strongly urge my colleagues to support this agreement. Vote ''yes'' on H.R. 4759.

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise in support of the Australia Free Trade Agreement but also to express reservations about the precedent it may set for future trade agreements. Australia has been a strong ally for decades and it is appropriate that the United States enjoy an open and fruitful trading relationship with Australia. Locally, this trade agreement will give a strong boost to trade and investments. My state of Missouri sent $137 million dollars worth of goods and services in 2003 to Australia, an increase of 9 percent over the previous year, in a variety of sectors. For example, chemical manufacturers export $46.4 million worth of goods to Australia and machinery manufacturers send $28.1 million worth of their products to the Australian market.

This trade agreement has received strong support from a variety of interests. The agreement contains many positive provisions such as strong protections for copyright owners and it provides exporters with a sound legal environment for the export of goods to the United States. Our country enjoys a trade surplus with Australia and has a long standing economic relationship with the United States that this agreement will continue. Passage of this agreement is a positive step for our relationship with one of our closest allies.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would like to commend the hard work and leadership of the Chairman and Ranking Member in producing this Australian Free Trade Agreement.

It is a credit to the diligence and dedication of the Australian government that this complex Free Trade Agreement was completed in under a year.

That is why I'm hopeful that the Australian government will employ that same diligence and dedication in resolving a dispute over maritime boundaries with its neighbor, East Timor.

Fifty-three of my colleagues have already joined in supporting East Timor's call for a fair and expeditious resolution to this dispute.

These disputed boundaries are a reminder of the invalid agreements made between Indonesia and Australia during the Indonesian military occupation of East Timor.

The East Timorese struggle for independence will not be complete until East Timor, a fully sovereign country, no longer has to bear that lingering reminder of subjugation.

To be sure, there is tremendous enormous financial benefit dependent upon how these maritime boundaries are drawn.

Rich with oil and natural gas reserves, these critical areas are an economic resource for a struggling country of very little economic activity.

A country struggling with high maternal mortality, widespread malaria and tuberculosis, rampant poverty, and desperately needed education.

The Australian government was a leader in assisting East Timor's transition to democracy. It provided peacekeepers and foreign aid. But since 1999, Australia has acquired an average of $1 million a day in petroleum from the disputed areas, exceeding the amount of assistance it provided to East Timor.

The Free Trade Agreement today between our two countries are a mark of respect we have for each other. A fair and equitable resolution of this boundary dispute with East Timor honors Australia's leadership and commitment to fostering a strong and enduring democracy.

As a friend of Australia, I respectfully urge its government to rejoin the international dispute resolution mechanisms and expeditiously negotiate a permanent maritime boundary in the Timor Sea in good faith, according to the established principles of international law.

Mr. BOEHNER. Mr. Speaker, I rise in strong support of this measure, which demonstrates, once again, the unmatched value of trade liberalization and the shared benefits of free trade agreements.

Over the last year, many of my colleagues here in the House have sought to address the plight of domestic manufacturers who have trimmed payrolls as they adapt to a new economy driven by the productivity gains of new technology. In the quest for political points trade has been wrongfully vilified and talk has centered on erecting new barriers to trade. Today members have an opportunity to set aside this counterproductive rhetoric and put into action a manufacturing trade agreement—an agreement that will benefit all sectors of our economy.

Two-way trade between the two countries exceeds $25 billion and the U.S. enjoys a $6 billion dollar trade surplus. More importantly, upon entry into force, 99 percent of exported U.S. manufactured goods to Australia will become duty-free. Manufactured goods now account for nearly 93 percent of U.S. exports to Australia. For automakers, a cornerstone industry for Ohio, this agreement will sweeten an export market that is already dominated by U.S. cars and light trucks and presents an opportunity for even more growth.

Lower tariffs on American goods will mean job creation, job security, and money in the pockets of America's workforce. Last year Ohio joined Washington, California, Illinois, Texas, Michigan, Pennsylvania, Kentucky, New York and Florida in the top 10 of exporting states to Australia. For my colleagues looking for even more reasons to vote in support of this agreement, you will discover some 19,000 companies that export to Australia

waiting for the opportunity to grow their business through lower tariffs and the removal of non-tariff trade barriers.

Those who search for any reason to be anti-trade are at a loss with this agreement because Australia maintains some of the highest labor standards and wage rates in the world. Sensitive agriculture products such as dairy and beef are protected with permanent safeguards and microscopic increases in tariff rate quotas. One commodity, sugar, is entirely exempted from the agreement. In short, those looking for reasons to oppose won't be able to find any.

Mr. Speaker, the U.S.-Australia Free Trade Agreement gives members that are concerned about job creation and manufacturing a chance to match their rhetoric with their vote. I urge members to support this agreement and vote yes.

Mr. BACA. Mr. Speaker, I rise in opposition to this free trade agreement.

A free trade agreement with Australia is a one-way street going in the wrong direction for U.S. jobs.

I am not opposed to free trade, but support it only when I believe the gains outweigh the losses.

Each year, Australia imports only 338 million dollars of American agriculture. Meanwhile, the United States imports about 2 billion dollars of agriculture from Australia.

Most of these imports, especially wine, milk, and wool, will hurt California's agriculture economy.

Competition is good for business, but only when all teams are playing by the same rules.

Over the past decade, exports of U.S. specialty crops have remained flat because of trade barriers and subsidized competition in many foreign countries.

Unfortunately, the Uruguay Round and other trade agreements have not provided the access to foreign markets that U.S. specialty crops were promised.

We need to remove these barriers before we sign new FTAs, and even then we should only sign those agreements that will result in beneficial trade for the United States—more exports than import.

I am especially concerned about FTAs with countries that export milk protein concentrates, which are used for the illegal substitution of milk in cheese. This robs our children of nutrition in the name of profit.

Warning Mr. and Mrs. America, one cup of milk in every slice is actually one cup of MPC in every slice.

As a representative of California, our Nation's beacon of agriculture, I have to think about jobs and the rural economy as much as lower prices at the consumer end.

We need to choose between buying moderately priced, high-quality products grown in the United States, or saving at the checkout counter on lower-quality foreign goods at the cost of sending our jobs abroad.

Will the millions of Americans who have lost their jobs to trade feel that it was worth it when they save a few dollars at the grocery store?

I don't think they will.

Mr. Speaker, I urge my colleagues to oppose the Australian Free Trade Agreement and other FTAs until the administration can focus on economic policies that protect American jobs.

Ms. BALDWIN. Mr. Speaker, I rise in opposition to this legislation. The Australian Free Trade Agreement has been crafted in a way that repeats the flaws and weaknesses of previous agreements such as NAFTA. However, this agreement is particularly bad for Wisconsin dairy farmers and Wisconsin seniors.

This agreement puts Wisconsin dairy producers at a disadvantage. It reduces and ultimately eliminates tariffs on a variety of Australian dairy products, including cheese, which is what most Wisconsin milk is used to produce. While the agreement does eliminate tariffs on U.S. dairy exports to Australia, this will not provide significant new export markets for American dairy producers. The Australian dairy industry is mature and stable, and Australia is a net exporter of dairy goods—they already export more than they import.

Another serious concern I have is how the agreement treats importation of Milk Protein Concentrate (MPC). MPC has been entering our country at an increasing rate since the mid–1990s. One of the biggest exporters of MPC is Australia. MPC can be imported in the U.S. under a very low tariff rate. This makes it an inexpensive substitute for domestically produced milk in American cheese vats and other dairy products. Simply put, MPC takes the place of U.S. milk in a variety of products, thereby reducing the demand for domestic milk, and lowering the price Wisconsin dairy producers receive for their high-quality product. Unfortunately, the agreement did not close the MPC import loophole—the tariff on MPC remains artificially low, and so imports of MPC will continue to displace U.S. milk in the domestic production of dairy products.

Further, I have serious concerns about provisions included in the agreement that relate to prescription drugs. The agreement allows pharmaceutical companies to prevent the importation of drugs to the United States. While this will have a very small practical impact on the importation of prescription drugs from Australia, it does hamper efforts of this Congress to provide our Nation's seniors with access to affordable prescription drugs. We simply cannot stand idly by while American seniors pay 30 percent–300 percent more for the exact same prescription drugs available in other countries. Allowing drug companies to prevent the importation of prescription drugs from Australia sets a dangerous precedent for future trade agreements. We should be expanding seniors' access to affordable drugs, not limiting it.

In addition, this agreement allows drug companies to challenge decisions made by Australia about what drugs should be covered under that country's health plan. This marks the first time that the United States has challenged how a foreign industrialized nation operates its national health program to provide inexpensive drugs to its own citizens. Instead of interfering with the Australian health program, we should learn from it. While our seniors continue to pay exorbitant prices for prescription drugs and lack comprehensive, reliable prescription drug coverage, Australia has developed a program that guarantees its citizens coverage for affordable prescription drugs. We should not be hampering their success.

Mr. ALLEN. Mr. Speaker, I rise in support of the U.S.-Australia Free Trade Agreement, but with strong reservations about the pharmaceutical provisions.

Australia is the 12th largest foreign market for the State of Maine. The State exported $29 million in goods and services to Australia last year. That amount will likely grow with this agreement, which eliminates 99 percent of all tariffs on manufactured goods, including on paper and wood products, and reduces barriers to Maine agricultural and services exporters.

Since Australia is a developed country with strong labor and environmental laws, this FTA does not involve a significant debate over the need to promote effective labor and environmental standards through trade agreements.

On balance, the agreement will benefit consumers and businesses in both countries by lowering barriers to trade in goods and services. However, the administration has included provisions, sought by the drug industry, that raise barriers to free trade in pharmaceuticals. This represents the first trade agreement to force changes in a trading partner's health regulations.

Australia is the first country to implement a comprehensive system that evaluates the comparative effectiveness and cost effectiveness of drugs. Under their innovative Pharmaceutical Benefits Scheme, PBS, the reimbursement rate for pharmaceuticals is based on the therapeutic value of a drug, rather than on the price that the manufacturer wants to charge. The system allows for higher reimbursements for truly innovative drugs. Pharmaceutical manufacturers are given ample opportunity to prove the value of their products, which results in a negotiation over the price at which the government will reimburse the manufacturer.

The U.S. pharmaceutical industry dislikes the Australian system because it shifts decision-making power over drug prices from industry executives to doctors and health professionals. Consequently, the Bush administration signaled that it wanted to make changes to the PBS through the U.S.-Australian Free Trade Agreement.

I am the sponsor, with Representative JO ANN EMERSON, of bipartisan legislation (H.R. 2356) to provide Federal funding for comparative effectiveness studies in the U.S. In October 2003, we sent a bipartisan letter to U.S. Trade Representative, USTR, Robert Zoellick expressing concerns that changes to the PBS could undermine our domestic efforts to promote comparative effectiveness. An exchange of letters followed.

Last winter, USTR offered a proposal to the Australians which, reportedly, would have undermined the pricing structure of the PBS. Fortunately, following objections by Members of Congress, public health groups, and the Government of Australia, that onerous provision was not adopted.

The pharmaceutical provisions that ultimately were included in the FTA were more limited, but not insignificant. My concerns are as follows:

First, Article 17.9.4 grants a patent holder like a pharmaceutical company the right to block re-importation of its patented product into the U.S. by contract or other means. By contrast, S. 2328, the Dorgan-McCain re-importation bill, contains provisions designed to prevent drug companies from restricting the ability of pharmacists or wholesalers to import drugs from approved countries (the bill lists Australia). The Senate re-importation bill, if enacted, could thus be challenged as inconsistent with trade law. The U.S. could be found to be in violation of obligations under

the U.S.-Australia FTA, and subject to sanctions until the re-importation law is repealed.

However, Australian law already prohibits this practice. Thus, the provision is not necessary. So why is it here? To set a precedent.

Deputy USTR Josette Shiner testified before the Senate Finance Committee on April 27 that the pharmaceutical provisions in the Australia FTA ''lay the groundwork for future FTAs,'' which will ''steer us in ongoing and future global, regional and bilateral negotiations—including upcoming FTA negotiations and consultations with Canada and other major trading partners bilaterally and in international fora like the OECD.''

The intent of the Bush Administration is clear. If the provision in this FTA were applied to trade relations with Canada (where re-export is legal), it would permit legal challenges, under trade law, to the re-importation bill that many of us favor as a source of affordable medicines for our constituents.

Second, the FTA opens up our Medicare program for potential changes, a fact acknowledged by USTR. Annex 2–C of the FTA imposes transparency obligations not only on Australia's PBS, but also on the pharmaceutical reimbursement policies of the Medicare Part B program. While USTR claims that these obligations do not require changes in U.S. law or regulation, it does set a worrisome precedent for modifying domestic health policies through trade agreements, where Congress has less say and the pharmaceutical industry has more influence.

Third, there are questions about whether the Australian FTA will affect the Department of Veterans Affairs' prescription drug benefit. An analysis by the Center for Policy Analysis on Trade and Health concludes that the Government Procurement Chapter of the U.S.-Australia FTA grants pharmaceutical companies standing to challenge VA procurement decisions, including decisions about the coverage and pricing of pharmaceuticals, as an unfair trade practice. USTR responds that the FTA imposes no new obligations on the VA beyond those already required by the World Trade Organization's Government Procurement Agreement. This question bears further investigation.

I have met with USTR officials, and came away with the impression that they went to great lengths to ensure that the pharmaceutical provisions in the U.S.-Australia FTA did not force changes to current U.S. health law or regulation. Even with the limited provision in the FTA, which makes relatively minor changes to the Australian PBS, U.S. negotiators couldn't avoid subjecting our Medicare program to the Agreement's obligations. They treaded carefully, but still crossed the line.

By the Administration's own admission, this FTA is part of a larger policy designed to dismantle so-called drug price control/reference pricing systems in other countries. Given the Australian experience, it is inconceivable that more aggressive pharmaceutical provisions in future FTAs won't have reciprocal, and likely adverse, effects on U.S. federal health programs.

Basically, by the same definition that labels the Australian, Canadian or German systems as ''price controls,'' our VA and DOD drug programs are price controls. Those who would use trade policy to dismantle price controls overseas will endanger the prescription drug benefits we offer to American veterans and military personnel.

Regardless of one's position on re-importation, the Australia FTA in general or the pharmaceutical provisions in particular, each of us should question whether it is appropriate to subject U.S. health laws to changes through trade negotiations. Under the Trade Promotion Authority procedure, Congress does not have the ability to amend an agreement once negotiated, and the principal House and Senate health policy committees are given little if any role.

Lastly, I question whether it is appropriate to use trade policy to interfere in other nations' health systems. We certainly wouldn't accept such a demand from other countries. The United States will win no friends if our trade agenda becomes a heavy handed tool to raise drug prices on the citizens of our trading partners.

The Bush Administration's excuse for not insisting on strong labor and environmental standards in trade agreements is that the U.S. has no business dictating other nations' labor and environmental laws. It is hypocritical for the Administration to take the opposite approach when it comes to health laws.

Australians like their PBS and believe it is a balanced and scientifically sound way of assessing value for money for pharmaceuticals. Who are we to conclude otherwise? Australians can get any drug they want that is approved by their equivalent of the Food and Drug Administration. There is a viable private market for the few drugs not listed on the PBS. In my opinion, USTR's cited justification under the Trade Act for the pharmaceutical provisions is wrong. Australians are not denied full market access to U.S. drug products.

The PBS section in the U.S.-Australian FTA has emerged as a major point of contention in Australia. Allegations that it will raise prices have forced a sensitive domestic political debate. This experience leads me to believe that a sure way for the Administration to slow down its trade agenda is to keep insisting on similar pharmaceutical provisions.

To conclude, I support the Australian FTA. This agreement by itself will have little or no impact on U.S. health care laws. But I want to make clear that similar provisions must be kept out of future trade agreements.

Mr. ETHERIDGE. Mr. Speaker, I rise today to announce my support for H.R. 4759, legislation implementing a free trade agreement with the nation of Australia.

Australia represents the world's 15th largest economy and Asia's fourth largest, and therefore offers great opportunities for U.S. exports. Australia has consistently been a partner with the United States in pushing for more open and freer trade throughout the world. So it is only fitting to have a free trade agreement with nation that shares our beliefs in freedom and free markets.

Under this FTA, more than 99 percent of U.S. manufactured goods will be duty-free from the first day of implementation. North Carolina exports to Australia in 2003, my state's 17th biggest export market, were valued at almost $262 million. From computer equipment to textiles to paper products to agriculture, North Carolina stands to gain much from increased access to this new market.

I am particularly pleased about the benefits this agreement provides with respect to agriculture. All Australian agricultural tariffs will go to zero immediately, reducing costs for agricultural exporters by $400 million.

Due to the hard work of the folks at USDA and USTR, Australia has agreed to limit some of its unscientific restrictions against U.S. pork exports. Consequently, the U.S. could ship $50 million worth of pork annually to Australia.

Despite this progress, Australia must do a better job of eliminating its unscientific sanitary and phytosanitary restrictions on agricultural imports. I urge the Administration to keep the pressure on Australia to meet with USDA and USTR to resolve many of the outstanding sanitary issues affecting pork and poultry.

This is an acceptable agreement for a nation as economically advanced and sophisticated as Australia. Its labor and environmental standards match if not exceed those in the United States. However, I want to make it perfectly clear to the Administration that the Australia Free Trade Agreement is not a sufficient model for future trade agreements.

I support fair trade. However, on future FTAs, the Administration will need to do a better job with regard to market access, sanitary and phytosanitary issues, labor and environmental standards, and intellectual property protection. I look forward to continuing to work with the Administration and my colleagues in Congress on all of these important issues.

I ask my colleagues to support this agreement.

Mr. BEREUTER. Mr. Speaker, this Member rises today to express his support for the United States-Australia Free Trade Implementation Act (H.R. 4759). This Member would like to thank the distinguished gentleman from Texas, the Majority Leader of the House of Representatives (Mr. DELAY) for introducing this legislation. Additional appreciation is expressed to both the distinguished gentleman from California, the Chairman of the House Ways and Means Committee (Mr. THOMAS) and the distinguished gentleman from California, the Chairman of the House Rules Committee (Mr. DREIER) for their successful efforts in helping move this legislation to the House Floor.

This Member is very supportive of this free trade agreement, FTA, with Australia. To illustrate the importance of trade with Australia, this Member believes it is necessary to cite relevant statistics. Trade between the U.S. and Australia was over $28 billion in 2003. The U.S. currently enjoys a trade surplus in goods and services with Australia of $9 billion, which is the second largest with any U.S. trading partner. Moreover, in 2003, Australia ranked 14th among all foreign markets for U.S. If this FTA is enacted into law, our level of trade with Australia will significantly increase.

This legislation is very important to Nebraska since our state's economy is very export dependent. For instance, Australia is the eighth largest market for Nebraska exports, with a total of over $62 million in 2003. Specifically, Nebraska exports to Australia include combine harvesters, agricultural spraying equipment, agricultural motor vehicles and motor boats. This legislation is critical to help remove existing trade barriers to exports of Nebraska goods and services to Australia. If this FTA would have been in place in 2003, nearly 95 percent of Nebraska's exports would have been able to come into Australia duty free.

This Member is supportive of this FTA with Australia for the following three reasons, among others: 1. this FTA will create jobs in

the U.S.; 2. this FTA will give greater market access for U.S. businesses and farmers; and 3. Through the twentieth century and in this one, Australia has been a consistent and highly valued and dependable ally of the United States.

Mr. Speaker, in advancing the support of this Member for this FTA with Australia it should be noted that this FTA will create jobs in the U.S. It is estimated that currently 270,000 jobs are either directly or indirectly supported by U.S. trade with Australia. This number will increase significantly if this FTA is enacted into law. Specifically, the following industries nationwide will particularly benefit because of the FTA with Australia: aircraft and parts; telecommunications equipment, computers, and machine engines.

With respect to Nebraska, it is estimated that exports to Australia already support approximately 300 jobs in Nebraska. It is important to note also that Australian-owned companies in Nebraska employ approximately 500 people. If this FTA is enacted into law, it is expected that trade with Australia will continue to support high-paying jobs in Nebraska in areas such as transportation, finance and advertising.

Second, this FTA will give greater market access to Australian markets for U.S. businesses and farmers. To illustrate this point, it should be noted that almost 99 percent of U.S. manufactured exports to Australia immediately become duty free, which is estimated to result in an annual $2 billion increase in U.S. goods exports to Australia. Under this FTA, all Australian agricultural tariffs are to be eliminated immediately, which is to result in a projected $400 million benefit to U.S. farmers. Currently, Australia maintains tariffs as high as 30 percent on certain dairy products and has tariffs of 4 to 5 percent on fresh and processed fruits, vegetables, processed foods, grains, oilseeds and other products. This FTA also contains important safeguard measures to protect against surges on Australian beef imports into the U.S.

Third, Australia has been an important ally of the U.S. in facing threats to the U.S. and in mutual threats to our countries, including the current war against terrorism. Since the September 11th terrorist attacks, for example, Australia has provided 1,550 soldiers and extensive military equipment to support the U.S.-led coalition against terrorism. Furthermore, Australia has also contributed to the U.S. efforts in Iraq. As another example, it should be noted that Australia has contributed fighter jets, transport aircraft and ships, reconnaissance forces and dive-team members. In light of this military support for the United States, this Member believes that it is both fitting and in the best interest of the U.S. to continue to enhance its economic partnership with Australia.

Mr. Speaker, in conclusion, this FTA with Australia provides tremendous opportunities for businesses and farmers across the United States, including in Nebraska. For the reasons stated above and many others, this Member urges his colleagues to support H.R. 4759, the U.S.-Australia Free Trade Implementation Act.

Mr. CARSON of Oklahoma. Mr. Speaker, today unfortunately, I rise to voice my opposition to this trade agreement. I do feel that trade is essential to America's sustained economic vitality and I also feel that we must make every effort to ensure that international markets are open to U.S. goods. Exports have accounted for almost 30 percent of American growth over the last decade. In fact, my state of Oklahoma sold more than $3 billion worth of exports to more than 100 foreign markets last year. With these statistics in mind, it pains me to vote against this agreement.

When casting my vote, I must think of the many Oklahoma farmers and ranchers that I have spoken with about this agreement and I must take into consideration how this agreement will severely cripple their ability to support themselves and their families. In particular, the provisions of this agreement will unfairly disadvantage the beef and wheat industries, which comprise two-thirds of Oklahoma's agricultural exports. This agreement would allow increased quantities of Australian beef to flood the U.S. market, which will result in unacceptably low market prices for American cattlemen. In Oklahoma alone, more than 105,000 jobs associated with the cattle industry will be put in jeopardy by the adverse effects of this agreement. In addition to the beef industry, the continued existence of the Australian Wheat Board under this agreement will force America's wheat farmers to continue their export competition in the international markets against a state run monopoly. A government backed monopoly, like the Australian Wheat Board, which dictates the price of wheat rather than allowing the free market to take its course, thereby allows Australian wheat to consistently undercut the price of American wheat in international markets. Once again, American farmers must be able to sell their products if they are going to support themselves and their families. This agreement does not afford them that opportunity.

Mr. OTTER. Mr. Speaker, I rise today to address some of the important provisions contained in H.R. 4759, United States-Australia Free Trade Implementation Act. While I am unable to support this agreement due to concerns over the impact it could have on dairy farmers and cattle ranchers in my district, I am very supportive of some provisions of this agreement and feel it is important to address those issues.

I am pleased the United States and Australia, through this Free Trade Agreement, have each recognized and addressed the importance of protecting private intellectual property. The entertainment industry in the United States is a valuable part of our national economy and the zero tariffs provisions addressing technology and entertainment products will ultimately debit our Nation's import/export trade column.

By protecting creative works produced in the United States, we are ensuring the long-term vitality of the American entertainment and technology industries, as well as, reinforcing our Nation's recognition of, and commitment to protecting private property.

The increases in criminal and civil protections against piracy contained in this bill will certainly prove a valuable deterrent against electronic pirates. These kinds of private property protections are the only way to ensure creative genius is rewarded. In fact, Abraham Lincoln said, ''The patent system added the fuel of interest to the fire of genius,'' thus leading us to understand that the protection of invention and creation, including private intellectual property, is the only way to promote further artistic creation and innovation.

Again, while I am unable to support the agreement as a whole, I felt strongly that the measures aimed at preventing creative and digital piracy should be recognized and applauded.

Ms. WATSON. Mr. Speaker, today is a great day for the protection of intellectual property rights in America and around the world. The U.S.-Australia Free Trade Agreement, of which I am a strong supporter, serves as a great testament to our Nation's commitment in safeguarding and strengthening the rights of intellectual property holders. I strongly urge my colleagues to support this bill.

Australia and the United States have long had a strong relationship, be it economically, politically, and culturally. In addition to nearly $60 billion invested in the United States by Australian companies, two-way trade between the two countries is currently at over $28 billion per year and growing. The U.S.-Australia agreement before us today would further strengthen these economic ties by expanding market access for the distribution of U.S. entertainment products and by setting the highest standards of copyright protection for the modern digital age.

For example, among many of its outstanding provisions, the Agreement would establish strong anti-circumvention provisions to prohibit tampering with copyright protection technologies. It includes strong IP enforcement language, which includes enhanced criminal standards for copyright infringement and stronger remedies and penalties. It would also eliminate tariffs on all U.S. movies, music, consumer products, books and magazines exported into Australia, and broaden market access for U.S. films and television programs over a variety of media, such as cable, satellite, and the internet. Finally, the FTA provides groundbreaking commitment to non-discriminatory treatment of digital products, including DVDs and CDs, and an agreement not to impose customs duties on such products.

The U. S.-Australia Free Trade Agreement is a giant step forward in improving the protection of intellectual property rights and in promoting the access of U.S. entertainment products around the world. It is good for our economy and good for our entertainment workers, who have witnessed drastic erosions in the values of their products due to unprecedented global piracy. When a major trading partner such as Australia makes these type of commitments to protect the products of the American creative community, we need to embrace them.

I strongly urge my colleagues to support the U.S.-Australia FTA.

Mr. STARK. Mr. Speaker, I rise today in opposition to H.R. 4759, the U.S.-Australia Free Trade Agreement (FTA). Once again the administration has given the pharmaceutical industry open access to the cookie jar. The result, to no one's surprise, is a free trade agreement that ensures the continued profitability of pharmaceutical manufacturers at the expense of average Americans who must buy drugs from other countries just to afford the prescriptions they need.

This agreement is about trusting the administration on prescription drugs. Unfortunately, the administration's recent record on this issue shows they are less than willing to tell the truth. During the debate on the Medicare prescription drug bill the administration hid the fact that the prescription benefit would cost $534 billion instead of the projected $400 billion.

Just today we learned that the administration has again missed the mark on an important estimate. According to this morning's New York Times 3.8 million people will lose retiree health coverage under the new Medicare law. This CMS estimate is 1.4 million people higher than the 2.4 million we were told during the Medicare debate.

The moral of the story is we can't trust the administration to make domestic health policy without congressional guidance. I don't trust USTR and the administration on prescription drugs, and you shouldn't either.

Less than one year ago, this House passed a bipartisan bill directing the Secretary of Health and Human Services to promulgate regulations allowing for reimportation of prescription drugs. There remain a number of pending proposals in the Senate that would legalize reimportation, as well. However, instead of fronting the reimportation issue in open debate, the administration took a back door approach, slipping language into the Australia agreement that effectively prohibits Congress from passing reimportation legislation.

Last time I checked, reimportation was a domestic health policy issue that should be debated in Congress. When the administration realized they were losing the battle, however, they turned to trade negotiation authority and their wealthy donor friends at the Pharmaceutical Research and Manufacturers of America (PhRMA), to find another alternative.

Last year the pharmaceutical industry spent $108 million on federal lobbying, and it is now clear they have purchased the keys to the kingdom. PhRMA used its power and influence during the FTA negotiations to obtain language that effectively precludes Congress from passing legislation allowing reimportation. As a result, U.S. citizens will never have access to affordable prescription drugs and the pharmaceutical manufacturers will continue to profit at the expense of Americans' health.

A vote for this FTA sets a dangerous precedent for the future of domestic pharmaceutical policy. Deputy U.S. Trade Representative Josette Shiner has already explained what will happen next. Testifying before the Senate Finance Committee, Ms. Shiner said the pharmaceutical provisions in the Australia FTA ''lay the groundwork for future FTAs,'' which will ''steer us in ongoing and future global, regional, and bilateral negotiations—including upcoming FTA negotiations and consultations with Canada and other major trading partners bilaterally and in international fora like the OECD.''

While I have no doubt the USTR knows how to negotiate a free trade agreement, I question whether they have any idea how their negotiations affect domestic health policy. During the negotiations with Australia, USTR pushed for language that would have decimated how the Veterans Administration and the Department of Defense buy drugs for our soldiers, veterans and their families. Though this language was later removed, the final agreement is so ambiguous, there are no guarantees Australia will not challenge our domestic drug procurement procedures. Besides the VA and Department of Defense, this could also affect Medicaid, Medicare and other federal programs.

In a brief moment of honesty, the Administration admitted that the transparency requirements in Annex 2–C of the FTA actually do apply to Medicare Part B drugs. Though no changes are currently necessary to comply with the FTA, there is no guarantee that we won't have to act in the future to change Medicare drug policy because of the Australia FTA and future agreements that share this transparency language. One possible problem in the near future is the switch to average sales price for Part B drugs in 2006. It is very clear that this payment policy change does not meet the transparency requirements of Annex 2–C, but as long as PhRMA is happy, I guess we should all rejoice and turn our backs on policies designed to lower the cost of Part B drugs for Medicare beneficiaries.

I urge all members today to think long and hard about what this vote means for the future of domestic prescription drug policy. Don't let anyone tell you that this vote is just about the U.S. and Australia and therefore you have nothing to worry about. If you have been touting the benefits of reimportation to constituents, but decide to vote for this FTA, I suggest you be prepared to deal with the backlash. If you truly care about reimportation and want to be able to use the issue on the campaign trail, vote against the U.S. Australia Free Trade Agreement.

Mr. THOMAS. Mr. Speaker, I rise today in strong support of H.R. 4759, to implement the United States—Australia Free Trade Agreement. The FTA is a solid agreement that will benefit American workers, farmers, consumers, businesses and the U.S. economy. The FTA also helps to solidify the economic component of our strategic relationship with Australia. While this bill has been proceeding through the legislative process, I have emphasized the commercial benefits that this agreement will bring. Today, I will focus on the broader picture because I think it is important to also consider this FTA in that context.

Australia is a very close friend and important ally of the United States. We share the belief in the power of freedom, democracy, and liberty, and our two countries are examples to the world of how these ideals can foster individual achievement. Australian troops have fought with American soldiers in all of the major conflicts of the 20th and 21st centuries.

Like a healthy marriage, our alliance cannot be taken for granted, and it must be continuously nurtured, assessed and adapted to accommodate modern times. Both countries believe that dynamic, open and efficient economies promote higher growth and better living standards and create more jobs in our respective countries.

Consistent with those beliefs, this Agreement will provide real benefits to the American and Australian peoples and our economies. This FTA will do for our economic relationship during the next 50 years what the ANZUS (Australia, New Zealand, and United States) treaty has done for the political and military relationship during the past 50 years.

The FTA will solidify a strong economic partnership in the World Trade Organization, where the United States and Australia share many goals. I encourage my colleagues to send an overwhelming message of approval to our friends ''down under'' and vote ''yes'' for this Agreement.

Mr. GUTKNECHT. Mr. Speaker, I certainly appreciate that the U.S. Trade Representative has addressed the important concerns related to agriculture in this free trade agreement. Agriculture is important to my district and the State of Minnesota. However, I cannot support the United States-Australia Free Trade Implementation Act due to the provisions related to pharmaceuticals that were included in this agreement.

On July 25, 2003, 242 of my colleagues joined me in supporting my legislation to implement a true, market-based system whereby consumers could access safe and affordable prescription drugs. I find it interesting that a free trade agreement would blatantly run counter to legislation that would, in effect, establish a market-based arena for prescription drugs.

Proponents of this language have said that it is practically meaningless because Australian law already bans the export of subsidized prescription drugs. Why then, do we feel the need to include such a meaningless provision in the trade agreement?

Let me illustrate why this language is not meaningless. In fact, it attempts to hamstring efforts to provide affordable prescription drugs for seniors, the uninsured and consumers who continue to pay 30 to 300 percent more for prescription drugs than anyone else.

In 2000, the MEDS Act included a provision that prohibited pharmaceutical manufacturers from entering into a contract or agreement if they included any language that would prevent the sale or distribution of prescription drugs. I have attached this language to be included in the RECORD, because it no longer exists in U.S. law. I discovered recently that the Medicare bill included a hidden provision which stripped this important language. This is outrageous.

So while proponents of this agreement claim that this language simply restates current law, current law is the result of hidden maneuvers without the knowledge of the 242 Members who support open markets for prescription drugs.

And who exactly provided the counsel to USTR while they drafted this supposedly innocuous language? Twenty-five members of the advisory committee advised the USTR on intellectual property rights regarding prescription drugs. Of those 25 members, at least 15 have interests in the pharmaceutical industry. There was not one senior, consumer or market access advocate on the panel.

With this language, when prescription drug market access legislation becomes law, and I believe it will, we will be in breach of the free trade agreement. The Australian government can enter into a dispute settlement case contending the law. Many have argued that this is not a likely scenario. It seems equally unlikely that American taxpayers would be forced to subsidize the research and development of prescription drugs for consumers around the world and still pay the world's highest prices, but we do.

I sat down with USTR representatives to give them a chance to tell their side of the story. When I asked who requested the prescription drug language, they had no answer. No one but the two negotiators were in the room and no one was taking notes. That seems a poor way to negotiate a free, fair and open agreement for trade. And it doesn't pass the smell test to me.

The free trade agreement could set a dangerous precedent that FDA—or other opponents of open markets for prescription drugs—will use to prevent American consumers access to affordable prescription drugs. I have always supported free and fair trade—this

agreement is neither free nor fair concerning prescription drugs.

Mr. BLUNT. Mr. Speaker, listening to today's dialogue on the floor, I have been encouraged by the strong bipartisan support for the United States-Australia Free Trade Agreement. Passing this implementation bill today will pave the way for an even deeper economic relationship with one of our most important strategic allies.

The Australian Government has not only sided with us, but committed valuable troops and resources to helping the United States in every major conflict in the last century, including the global war on terror. Notably, Prime Minister Howard has shown courage and dedication to the cause of freedom over the past two years with his steadfast commitment to the coalition in Iraq.

Mr. Speaker, like our own economy, Australia's is a modern, well-developed, transparent economic system. A deep trade relationship already exists between the United States and Australia in the form of $28 billion per year.

As with every well-negotiated trade agreement, both sides will benefit immediately upon the enactment of this free trade agreement. For the United States, this means that more than 99 percent of U.S. exports of manufactured goods to Australia will become tariff-free on day one, resulting in a possible $2 billion per year in increased manufacturing exports; U.S. agricultural exports, currently totaling $400 million, will receive immediate duty free access to the Australian market; and American services providers, including the telecommunications, financial services, energy, delivery, and entertainment industries, will be accorded substantial new access to a major developed market.

The reasons I just listed, and there are many others, help explain why this agreement will receive such broad and deep support from the House of Representatives.

I would like to thank my friend from New York, Mr. CROWLEY, for his help in generating support for the agreement on the other side of the aisle. I would also like to thank Ambassador Zoellick and his staff for their hard work in negotiating this agreement.

Mr. Speaker, I urge all of my colleagues to vote in favor of expanding trade and investment opportunities for U.S. firms, creating jobs for American workers, and deepening an already strong relationship with the Australian Government and the people of Australia.

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

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

Pursuant to the rule, the bill is considered read for amendment, and the previous question is ordered.

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.

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

Mr. CRANE. 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 vote was taken by electronic device, and there were—yeas 314, nays 109, answered ''present'' 1, not voting 9, as follows:

[Roll No. 375]

YEAS—314

| | | |
|---|---|---|
| Ackerman | Dunn | LaTourette |
| Aderholt | Edwards | Leach |
| Akin | Ehlers | Levin |
| Allen | Engel | Lewis (CA) |
| Bachus | English | Lewis (GA) |
| Baird | Eshoo | Lewis (KY) |
| Baker | Etheridge | Linder |
| Ballenger | Everett | LoBiondo |
| Barrett (SC) | Farr | Lofgren |
| Bartlett (MD) | Feeney | Lowey |
| Barton (TX) | Ferguson | Lucas (KY) |
| Beauprez | Flake | Lynch |
| Becerra | Foley | Maloney |
| Bell | Forbes | Manzullo |
| Bereuter | Ford | Matheson |
| Berkley | Fossella | Matsui |
| Berman | Franks (AZ) | McCarthy (MO) |
| Biggert | Frelinghuysen | McCarthy (NY) |
| Bilirakis | Frost | McCotter |
| Bishop (GA) | Gallegly | McCrery |
| Bishop (NY) | Garrett (NJ) | McDermott |
| Blackburn | Gephardt | McGovern |
| Blumenauer | Gerlach | McHugh |
| Blunt | Gibbons | McInnis |
| Boehlert | Gilchrest | McKeon |
| Boehner | Gillmor | Meehan |
| Bonilla | Gingrey | Meek (FL) |
| Bonner | Gonzalez | Meeks (NY) |
| Bono | Goodlatte | Menendez |
| Boozman | Gordon | Mica |
| Boswell | Goss | Miller (FL) |
| Boyd | Granger | Miller (MI) |
| Bradley (NH) | Graves | Miller (NC) |
| Brady (TX) | Green (TX) | Miller, Gary |
| Brown (SC) | Greenwood | Moore |
| Brown-Waite, Ginny | Hall | Moran (VA) |
| Burgess | Harman | Murphy |
| Burns | Harris | Murtha |
| Burr | Hart | Musgrave |
| Buyer | Hastings (WA) | Myrick |
| Calvert | Hayworth | Napolitano |
| Camp | Hefley | Neal (MA) |
| Cannon | Hensarling | Nethercutt |
| Cantor | Herger | Neugebauer |
| Capito | Hill | Ney |
| Capps | Hinojosa | Northup |
| Capuano | Hobson | Norwood |
| Cardin | Holden | Nussle |
| Carter | Holt | Olver |
| Castle | Honda | Ortiz |
| Chabot | Hooley (OR) | Ose |
| Chandler | Houghton | Oxley |
| Chocola | Hoyer | Pelosi |
| Clay | Hulshof | Pence |
| Coble | Hunter | Peterson (PA) |
| Cole | Hyde | Petri |
| Cooper | Inslee | Pickering |
| Cox | Israel | Pitts |
| Cramer | Issa | Platts |
| Crane | Jackson-Lee (TX) | Porter |
| Crenshaw | Jefferson | Portman |
| Crowley | Jenkins | Price (NC) |
| Cubin | John | Pryce (OH) |
| Culberson | Johnson (CT) | Putnam |
| Cunningham | Johnson (IL) | Radanovich |
| Davis (AL) | Johnson, E. B. | Ramstad |
| Davis (CA) | Johnson, Sam | Regula |
| Davis (FL) | Jones (OH) | Renzi |
| Davis (TN) | Keller | Reyes |
| Davis, Jo Ann | Kelly | Reynolds |
| Davis, Tom | Kennedy (MN) | Rodriguez |
| Deal (GA) | Kennedy (RI) | Rogers (AL) |
| DeGette | Kilpatrick | Rogers (KY) |
| DeLay | King (IA) | Rogers (MI) |
| DeMint | King (NY) | Rohrabacher |
| Diaz-Balart, L. | Kingston | Ross |
| Diaz-Balart, M. | Kirk | Roybal-Allard |
| Dicks | Kline | Royce |
| Dingell | Knollenberg | Ruppersberger |
| Doggett | Kolbe | Ryan (WI) |
| Dooley (CA) | LaHood | Ryun (KS) |
| Doolittle | Lampson | Sanchez, Loretta |
| Doyle | Langevin | Sandlin |
| Dreier | Larsen (WA) | Saxton |
| Duncan | Latham | Schiff |
| | | Schrock |
| Scott (GA) | Tancredo | Walsh |
| Sessions | Tanner | Wamp |
| Shadegg | Tauscher | Watson |
| Shaw | Tauzin | Watt |
| Shays | Terry | Weiner |
| Sherman | Thomas | Weldon (FL) |
| Sherwood | Thompson (CA) | Weldon (PA) |
| Shimkus | Thornberry | Weller |
| Shuster | Tiahrt | Wexler |
| Simmons | Tiberi | Whitfield |
| Skelton | Toomey | Wicker |
| Smith (NJ) | Towns | Wilson (NM) |
| Smith (TX) | Turner (OH) | Wilson (SC) |
| Smith (WA) | Turner (TX) | Wolf |
| Snyder | Udall (CO) | Wu |
| Souder | Upton | Wynn |
| Stearns | Van Hollen | Young (AK) |
| Stenholm | Visclosky | Young (FL) |
| Sullivan | Vitter | |
| Sweeney | Walden (OR) | |

NAYS—109

| | | |
|---|---|---|
| Abercrombie | Hayes | Paul |
| Alexander | Herseth | Payne |
| Andrews | Hinchey | Pearce |
| Baca | Hoekstra | Peterson (MN) |
| Baldwin | Hostettler | Pombo |
| Bass | Jackson (IL) | Pomeroy |
| Berry | Jones (NC) | Quinn |
| Bishop (UT) | Kanjorski | Rahall |
| Boucher | Kaptur | Rehberg |
| Brady (PA) | Kildee | Rothman |
| Brown (OH) | Kleczka | Rush |
| Brown, Corrine | Kucinich | Ryan (OH) |
| Burton (IN) | Lantos | Sabo |
| Cardoza | Larson (CT) | Sánchez, Linda T. |
| Carson (OK) | Lee | Sanders |
| Case | Lipinski | Schakowsky |
| Clyburn | Lucas (OK) | Scott (VA) |
| Conyers | Markey | Sensenbrenner |
| Costello | Marshall | Serrano |
| Cummings | McCollum | Simpson |
| Davis (IL) | McIntyre | Slaughter |
| DeFazio | McNulty | Smith (MI) |
| Delahunt | Michaud | Solis |
| DeLauro | Millender-McDonald | Spratt |
| Deutsch | Miller, George | Stark |
| Emanuel | Mollohan | Strickland |
| Emerson | Moran (KS) | Stupak |
| Evans | Nadler | Taylor (MS) |
| Fattah | Oberstar | Taylor (NC) |
| Filner | Obey | Thompson (MS) |
| Frank (MA) | Osborne | Tierney |
| Goode | Otter | Udall (NM) |
| Green (WI) | Owens | Velázquez |
| Grijalva | Pallone | Waters |
| Gutierrez | Pascrell | Waxman |
| Gutknecht | Pastor | Woolsey |
| Hastings (FL) | | |

ANSWERED ''PRESENT''—1

Nunes

NOT VOTING—9

| | | |
|---|---|---|
| Carson (IN) | Isakson | Majette |
| Collins | Istook | Rangel |
| Hoeffel | Kind | Ros-Lehtinen |

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HASTINGS of Washington) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1719

Messrs. MARSHALL, THOMPSON of Mississippi and CLYBURN changed their vote from ''yea'' to ''nay.''

Mrs. NAPOLITANO, Ms. GINNY BROWN-WAITE of Florida and Mr. TOWNS changed their vote from ''nay'' to ''yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

## GENERAL LEAVE

Mr. CRANE. 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. 4759, the bill just passed.

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

There was no objection.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4818, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2005

Mr. LINCOLN DIAZ-BALART of Florida (during consideration of H.R. 4759), from the Committee on Rules, submitted a privileged report (Rept. No. 108–604) on the resolution (H. Res. 715) providing for consideration of the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, yesterday, July 13, 2004, I missed a number of rollcall votes. If I had been here, I would have voted in the following manner: rollcall vote No. 363, I would have voted ''aye''; rollcall vote No. 364, I would have voted ''aye''; rollcall vote No. 366, I would have voted ''aye''; rollcall vote No. 367, I would have voted ''no''; rollcall vote No. 368, I would have voted ''no''; rollcall vote No. 369, I would have voted ''aye''; and on final passage, I would have voted ''aye.''

## PROJECT BIOSHIELD ACT OF 2004

Mr. BARTON of Texas. Mr. Speaker, pursuant to the order of the House of Tuesday, July 13, 2004, I call up the Senate bill (S. 15) to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of S. 15 is as follows:

S. 15

*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 ''Project BioShield Act of 2004''.

**SEC. 2. BIOMEDICAL COUNTERMEASURE RESEARCH AND DEVELOPMENT—AUTHORITIES.**

(a) IN GENERAL.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319F the following section:

**''SEC. 319F–1. AUTHORITY FOR USE OF CERTAIN PROCEDURES REGARDING QUALIFIED COUNTERMEASURE RESEARCH AND DEVELOPMENT ACTIVITIES.**

''(a) IN GENERAL.—

''(1) AUTHORITY.—In conducting and supporting research and development activities regarding countermeasures under section 319F(h), the Secretary may conduct and support such activities in accordance with this section and, in consultation with the Director of the National Institutes of Health, as part of the program under section 446, if the activities concern qualified countermeasures.

''(2) QUALIFIED COUNTERMEASURE.—For purposes of this section, the term 'qualified countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))) that the Secretary determines to be a priority (consistent with sections 302(2) and 304(a) of the Homeland Security Act of 2002) to—

''(A) treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent that may cause a public health emergency affecting national security; or

''(B) treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device that is used as described in subparagraph (A).

''(3) INTERAGENCY COOPERATION.—

''(A) IN GENERAL.—In carrying out activities under this section, the Secretary is authorized, subject to subparagraph (B), to enter into interagency agreements and other collaborative undertakings with other agencies of the United States Government.

''(B) LIMITATION.—An agreement or undertaking under this paragraph shall not authorize another agency to exercise the authorities provided by this section.

''(4) AVAILABILITY OF FACILITIES TO THE SECRETARY.—In any grant, contract, or cooperative agreement entered into under the authority provided in this section with respect to a biocontainment laboratory or other related or ancillary specialized research facility that the Secretary determines necessary for the purpose of performing, administering, or supporting qualified countermeasure research and development, the Secretary may provide that the facility that is the object of such grant, contract, or cooperative agreement shall be available as needed to the Secretary to respond to public health emergencies affecting national security.

''(5) TRANSFERS OF QUALIFIED COUNTERMEASURES.—Each agreement for an award of a grant, contract, or cooperative agreement under section 319F(h) for the development of a qualified countermeasure shall provide that the recipient of the award will comply with all applicable export-related controls with respect to such countermeasure.

''(b) EXPEDITED PROCUREMENT AUTHORITY.—

''(1) INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR QUALIFIED COUNTERMEASURE PROCUREMENTS.—

''(A) IN GENERAL.—For any procurement by the Secretary of property or services for use (as determined by the Secretary) in performing, administering, or supporting qualified countermeasure research or development activities under this section that the Secretary determines necessary to respond to pressing research and development needs under this section, the amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), as applicable pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), shall be deemed to be $25,000,000 in the administration, with respect to such procurement, of—

''(i) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

''(ii) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

''(B) APPLICATION OF CERTAIN PROVISIONS.—Notwithstanding subparagraph (A) and the provision of law and regulations referred to in such subparagraph, each of the following provisions shall apply to procurements described in this paragraph to the same extent that such provisions would apply to such procurements in the absence of subparagraph (A):

''(i) Chapter 37 of title 40, United States Code (relating to contract work hours and safety standards).

''(ii) Subsections (a) and (b) of section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57(a) and (b)).

''(iii) Section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d) (relating to the examination of contractor records).

''(iv) Section 3131 of title 40, United States Code (relating to bonds of contractors of public buildings or works).

''(v) Subsection (a) of section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) (relating to contingent fees to middlemen).

''(vi) Section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962).

''(vii) Section 1354 of title 31, United States Code (relating to the limitation on the use of appropriated funds for contracts with entities not meeting veterans employment reporting requirements).

''(C) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for procurements that are under this paragraph, including requirements with regard to documenting the justification for use of the authority in this paragraph with respect to the procurement involved.

''(D) AUTHORITY TO LIMIT COMPETITION.—In conducting a procurement under this paragraph, the Secretary may not use the authority provided for under subparagraph (A) to conduct a procurement on a basis other than full and open competition unless the Secretary determines that the mission of the BioShield Program under the Project BioShield Act of 2004 would be seriously impaired without such a limitation.

''(2) PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.—

''(A) IN GENERAL.—In using the authority provided in section 303(c)(1) of title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)) to use procedures other than competitive procedures in the case of a procurement described in paragraph (1) of this subsection, the phrase 'available from only one responsible source' in such section 303(c)(1) shall be deemed to mean 'available from only one responsible source or only from a limited number of responsible sources'.

''(B) RELATION TO OTHER AUTHORITIES.—The authority under subparagraph (A) is in addition to any other authority to use procedures other than competitive procedures.

''(C) APPLICABLE GOVERNMENT-WIDE REGULATIONS.—The Secretary shall implement this paragraph in accordance with government-wide regulations implementing such section 303(c)(1) (including requirements that offers be solicited from as many potential

sources as is practicable under the circumstances, that required notices be published, and that submitted offers be considered), as such regulations apply to procurements for which an agency has authority to use procedures other than competitive procedures when the property or services needed by the agency are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the agency.

''(3) INCREASED MICROPURCHASE THRESHOLD.—

''(A) IN GENERAL.—For a procurement described by paragraph (1), the amount specified in subsections (c), (d), and (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) shall be deemed to be $15,000 in the administration of that section with respect to such procurement.

''(B) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for purchases that are under this paragraph and that are greater than $2,500.

''(C) EXCEPTION TO PREFERENCE FOR PURCHASE CARD MECHANISM.—No provision of law establishing a preference for using a Government purchase card method for purchases shall apply to purchases that are under this paragraph and that are greater than $2,500.

''(4) REVIEW.—

''(A) REVIEW ALLOWED.—Notwithstanding subsection (f), section 1491 of title 28, United States Code, and section 3556 of title 31 of such Code, review of a contracting agency decision relating to a procurement described in paragraph (1) may be had only by filing a protest—

''(i) with a contracting agency; or

''(ii) with the Comptroller General under subchapter V of chapter 35 of title 31, United States Code.

''(B) OVERRIDE OF STAY OF CONTRACT AWARD OR PERFORMANCE COMMITTED TO AGENCY DISCRETION.—Notwithstanding section 1491 of title 28, United States Code, and section 3553 of title 31 of such Code, the following authorizations by the head of a procuring activity are committed to agency discretion:

''(i) An authorization under section 3553(c)(2) of title 31, United States Code, to award a contract for a procurement described in paragraph (1) of this subsection.

''(ii) An authorization under section 3553(d)(3)(C) of such title to perform a contract for a procurement described in paragraph (1) of this subsection.

''(c) AUTHORITY TO EXPEDITE PEER REVIEW.—

''(1) IN GENERAL.—The Secretary may, as the Secretary determines necessary to respond to pressing qualified countermeasure research and development needs under this section, employ such expedited peer review procedures (including consultation with appropriate scientific experts) as the Secretary, in consultation with the Director of NIH, deems appropriate to obtain assessment of scientific and technical merit and likely contribution to the field of qualified countermeasure research, in place of the peer review and advisory council review procedures that would be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494, as applicable to a grant, contract, or cooperative agreement—

''(A) that is for performing, administering, or supporting qualified countermeasure research and development activities; and

''(B) the amount of which is not greater than $1,500,000.

''(2) SUBSEQUENT PHASES OF RESEARCH.—The Secretary's determination of whether to employ expedited peer review with respect to any subsequent phases of a research grant, contract, or cooperative agreement under this section shall be determined without regard to the peer review procedures used for any prior peer review of that same grant, contract, or cooperative agreement. Nothing in the preceding sentence may be construed to impose any requirement with respect to peer review not otherwise required under any other law or regulation.

''(d) AUTHORITY FOR PERSONAL SERVICES CONTRACTS.—

''(1) IN GENERAL.—For the purpose of performing, administering, or supporting qualified countermeasure research and development activities, the Secretary may, as the Secretary determines necessary to respond to pressing qualified countermeasure research and development needs under this section, obtain by contract (in accordance with section 3109 of title 5, United States Code, but without regard to the limitations in such section on the period of service and on pay) the personal services of experts or consultants who have scientific or other professional qualifications, except that in no case shall the compensation provided to any such expert or consultant exceed the daily equivalent of the annual rate of compensation for the President.

''(2) FEDERAL TORT CLAIMS ACT COVERAGE.—

''(A) IN GENERAL.—A person carrying out a contract under paragraph (1), and an officer, employee, or governing board member of such person, shall, subject to a determination by the Secretary, be deemed to be an employee of the Department of Health and Human Services for purposes of claims under sections 1346(b) and 2672 of title 28, United States Code, for money damages for personal injury, including death, resulting from performance of functions under such contract.

''(B) EXCLUSIVITY OF REMEDY.—The remedy provided by subparagraph (A) shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the entity involved (person, officer, employee, or governing board member) for any act or omission within the scope of the Federal Tort Claims Act.

''(C) RECOURSE IN CASE OF GROSS MISCONDUCT OR CONTRACT VIOLATION.—

''(i) IN GENERAL.—Should payment be made by the United States to any claimant bringing a claim under this paragraph, either by way of administrative determination, settlement, or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover against any entity identified in subparagraph (B) for that portion of the damages so awarded or paid, as well as interest and any costs of litigation, resulting from the failure of any such entity to carry out any obligation or responsibility assumed by such entity under a contract with the United States or from any grossly negligent or reckless conduct or intentional or willful misconduct on the part of such entity.

''(ii) VENUE.—The United States may maintain an action under this subparagraph against such entity in the district court of the United States in which such entity resides or has its principal place of business.

''(3) INTERNAL CONTROLS TO BE INSTITUTED.—

''(A) IN GENERAL.—The Secretary shall institute appropriate internal controls for contracts under this subsection, including procedures for the Secretary to make a determination of whether a person, or an officer, employee, or governing board member of a person, is deemed to be an employee of the Department of Health and Human Services pursuant to paragraph (2).

''(B) DETERMINATION OF EMPLOYEE STATUS TO BE FINAL.—A determination by the Secretary under subparagraph (A) that a person, or an officer, employee, or governing board member of a person, is or is not deemed to be an employee of the Department of Health and Human Services shall be final and binding on the Secretary and the Attorney General and other parties to any civil action or proceeding.

''(4) NUMBER OF PERSONAL SERVICES CONTRACTS LIMITED.—The number of experts and consultants whose personal services are obtained under paragraph (1) shall not exceed 30 at any time.

''(e) STREAMLINED PERSONNEL AUTHORITY.—

''(1) IN GENERAL.—In addition to any other personnel authorities, the Secretary may, as the Secretary determines necessary to respond to pressing qualified countermeasure research and development needs under this section, without regard to those provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, appoint professional and technical employees, not to exceed 30 such employees at any time, to positions in the National Institutes of Health to perform, administer, or support qualified countermeasure research and development activities in carrying out this section.

''(2) LIMITATIONS.—The authority provided for under paragraph (1) shall be exercised in a manner that—

''(A) recruits and appoints individuals based solely on their abilities, knowledge, and skills;

''(B) does not discriminate for or against any applicant for employment on any basis described in section 2302(b)(1) of title 5, United States Code;

''(C) does not allow an official to appoint an individual who is a relative (as defined in section 3110(a)(3) of such title) of such official;

''(D) does not discriminate for or against an individual because of the exercise of any activity described in paragraph (9) or (10) of section 2302(b) of such title; and

''(E) accords a preference, among equally qualified persons, to persons who are preference eligibles (as defined in section 2108(3) of such title).

''(3) INTERNAL CONTROLS TO BE INSTITUTED.—The Secretary shall institute appropriate internal controls for appointments under this subsection.

''(f) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions by the Secretary under the authority of this section are committed to agency discretion.''.

(b) TECHNICAL AMENDMENT.—Section 481A of the Public Health Service Act (42 U.S.C. 287a–2) is amended—

(1) in subsection (a)(1), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center'';

(2) in subsection (c)—

(A) in paragraph (1), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center''; and

(B) in paragraph (2), in the matter preceding subparagraph (A), by striking ''subsection (i)'' and inserting ''subsection (i)(1)'';

(3) in subsection (d), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center'';

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center'';

(ii) in subparagraph (A), by inserting ''(or, in the case of the Institute, 75 percent)'' after ''50 percent''; and

(iii) in subparagraph (B), by inserting ''(or, in the case of the Institute, 75 percent)'' after ''40 percent'';

(B) in paragraph (2), by inserting ''or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director of the Center''; and

(C) in paragraph (4), by inserting ''of the Center or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director'';

(5) in subsection (f)—

(A) in paragraph (1), by inserting ''in the case of an award by the Director of the Center,'' before ''the applicant''; and

(B) in paragraph (2), by inserting ''of the Center or the Director of the National Institute of Allergy and Infectious Diseases'' after ''Director''; and

(6) in subsection (i)—

(A) by striking ''APPROPRIATIONS.—For the purpose of carrying out this section,'' and inserting the following: ''APPROPRIATIONS.—

''(1) CENTER.—For the purpose of carrying out this section with respect to the Center,''; and

(B) by adding at the end the following:

''(2) NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES.—For the purpose of carrying out this section with respect to the National Institute of Allergy and Infectious Diseases, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 and 2005.''.

(c) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS.—Section 2106 of the Public Health Service Act (42 U.S.C. 300aa–6) is amended—

(1) in subsection (a), by striking ''authorized to be appropriated'' and all that follows and inserting the following: ''authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 and 2005.''; and

(2) in subsection (b), by striking ''authorized to be appropriated'' and all that follows and inserting the following: ''authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 and 2005.''.

(d) TECHNICAL AMENDMENTS.—Section 319F of the Public Health Service Act (42 U.S.C. 247d–6) is amended—

(1) in subsection (a), by inserting ''the Secretary of Homeland Security,'' after ''Management Agency,''; and

(2) in subsection (h)(4)(B), by striking ''to diagnose conditions'' and inserting ''to treat, identify, or prevent conditions''.

(e) RULE OF CONSTRUCTION.—Nothing in this section has any legal effect on sections 302(2), 302(4), 304(a), or 304(b) of the Homeland Security Act of 2002.

**SEC. 3. BIOMEDICAL COUNTERMEASURES PROCUREMENT.**

(a) ADDITIONAL AUTHORITY REGARDING STRATEGIC NATIONAL STOCKPILE.—

(1) TRANSFER OF PROGRAM.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (116 Stat. 611; 42 U.S.C. 300hh–12) is transferred from such Act to the Public Health Service Act, is redesignated as section 319F–2, and is inserted after section 319F–1 of the Public Health Service Act (as added by section 2 of this Act).

(2) ADDITIONAL AUTHORITY.—Section 319F–2 of the Public Health Service Act, as added by paragraph (1), is amended to read as follows:

**''SEC. 319F–2. STRATEGIC NATIONAL STOCKPILE.**

''(a) STRATEGIC NATIONAL STOCKPILE.—

''(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Homeland Security (referred to in this section as the 'Homeland Security Secretary'), shall maintain a stockpile or stockpiles of drugs, vaccines and other biological products, medical devices, and other supplies in such numbers, types, and amounts as are determined by the Secretary to be appropriate and practicable, taking into account other available sources, to provide for the emergency health security of the United States, including the emergency health security of children and other vulnerable populations, in the event of a bioterrorist attack or other public health emergency.

''(2) PROCEDURES.—The Secretary, in managing the stockpile under paragraph (1), shall—

''(A) consult with the working group under section 319F(a);

''(B) ensure that adequate procedures are followed with respect to such stockpile for inventory management and accounting, and for the physical security of the stockpile;

''(C) in consultation with Federal, State, and local officials, take into consideration the timing and location of special events;

''(D) review and revise, as appropriate, the contents of the stockpile on a regular basis to ensure that emerging threats, advanced technologies, and new countermeasures are adequately considered;

''(E) devise plans for the effective and timely supply-chain management of the stockpile, in consultation with appropriate Federal, State and local agencies, and the public and private health care infrastructure;

''(F) deploy the stockpile as required by the Secretary of Homeland Security to respond to an actual or potential emergency;

''(G) deploy the stockpile at the discretion of the Secretary to respond to an actual or potential public health emergency or other situation in which deployment is necessary to protect the public health or safety; and

''(H) ensure the adequate physical security of the stockpile.

''(b) SMALLPOX VACCINE DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary shall award contracts, enter into cooperative agreements, or carry out such other activities as may reasonably be required in order to ensure that the stockpile under subsection (a) includes an amount of vaccine against smallpox as determined by such Secretary to be sufficient to meet the health security needs of the United States.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the private distribution, purchase, or sale of vaccines from sources other than the stockpile described in subsection (a).

''(c) ADDITIONAL AUTHORITY REGARDING PROCUREMENT OF CERTAIN BIOMEDICAL COUNTERMEASURES; AVAILABILITY OF SPECIAL RESERVE FUND.—

''(1) IN GENERAL.—

''(A) USE OF FUND.—A security countermeasure may, in accordance with this subsection, be procured with amounts in the special reserve fund under paragraph (10).

''(B) SECURITY COUNTERMEASURE.—For purposes of this subsection, the term 'security countermeasure' means a drug (as that term is defined by section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1))), biological product (as that term is defined by section 351(i) of this Act (42 U.S.C. 262(i))), or device (as that term is defined by section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h))) that—

''(i)(I) –the Secretary determines to be a priority (consistent with sections 302(2) and 304(a) of the Homeland Security Act of 2002) to treat, identify, or prevent harm from any biological, chemical, radiological, or nuclear agent identified as a material threat under paragraph (2)(A)(ii), or to treat, identify, or prevent harm from a condition that may result in adverse health consequences or death and may be caused by administering a drug, biological product, or device against such an agent;

''(II) the Secretary determines under paragraph (2)(B)(ii) to be a necessary countermeasure; and

''(III)(aa) is approved or cleared under chapter V of the Federal Food, Drug, and Cosmetic Act or licensed under section 351 of this Act; or

''(bb) is a countermeasure for which the Secretary determines that sufficient and satisfactory clinical experience or research data (including data, if available, from pre-clinical and clinical trials) support a reasonable conclusion that the countermeasure will qualify for approval or licensing within eight years after the date of a determination under paragraph (5); or

''(ii) is authorized for emergency use under section 564 of the Federal Food, Drug, and Cosmetic Act.

''(2) DETERMINATION OF MATERIAL THREATS.—

''(A) MATERIAL THREAT.—The Homeland Security Secretary, in consultation with the Secretary and the heads of other agencies as appropriate, shall on an ongoing basis—

''(i) assess current and emerging threats of chemical, biological, radiological, and nuclear agents; and

''(ii) determine which of such agents present a material threat against the United States population sufficient to affect national security.

''(B) PUBLIC HEALTH IMPACT; NECESSARY COUNTERMEASURES.—The Secretary shall on an ongoing basis—

''(i) assess the potential public health consequences for the United States population of exposure to agents identified under subparagraph (A)(ii); and

''(ii) determine, on the basis of such assessment, the agents identified under subparagraph (A)(ii) for which countermeasures are necessary to protect the public health.

''(C) NOTICE TO CONGRESS.—The Secretary and the Homeland Security Secretary shall promptly notify the designated congressional committees (as defined in paragraph (10)) that a determination has been made pursuant to subparagraph (A) or (B).

''(D) ASSURING ACCESS TO THREAT INFORMATION.—In making the assessment and determination required under subparagraph (A), the Homeland Security Secretary shall use all relevant information to which such Secretary is entitled under section 202 of the Homeland Security Act of 2002, including but not limited to information, regardless of its level of classification, relating to current and emerging threats of chemical, biological, radiological, and nuclear agents.

''(3) ASSESSMENT OF AVAILABILITY AND APPROPRIATENESS OF COUNTERMEASURES.—The Secretary, in consultation with the Homeland Security Secretary, shall assess on an ongoing basis the availability and appropriateness of specific countermeasures to address specific threats identified under paragraph (2).

''(4) CALL FOR DEVELOPMENT OF COUNTERMEASURES; COMMITMENT FOR RECOMMENDATION FOR PROCUREMENT.—

''(A) PROPOSAL TO THE PRESIDENT.—If, pursuant to an assessment under paragraph (3), the Homeland Security Secretary and the Secretary make a determination that a countermeasure would be appropriate but is either currently unavailable for procurement as a security countermeasure or is approved, licensed, or cleared only for alternative uses, such Secretaries may jointly submit to the President a proposal to—

''(i) issue a call for the development of such countermeasure; and

''(ii) make a commitment that, upon the first development of such countermeasure that meets the conditions for procurement under paragraph (5), the Secretaries will,

based in part on information obtained pursuant to such call, make a recommendation under paragraph (6) that the special reserve fund under paragraph (10) be made available for the procurement of such countermeasure.

''(B) COUNTERMEASURE SPECIFICATIONS.—The Homeland Security Secretary and the Secretary shall, to the extent practicable, include in the proposal under subparagraph (A)—

''(i) estimated quantity of purchase (in the form of number of doses or number of effective courses of treatments regardless of dosage form);

''(ii) necessary measures of minimum safety and effectiveness;

''(iii) estimated price for each dose or effective course of treatment regardless of dosage form; and

''(iv) other information that may be necessary to encourage and facilitate research, development, and manufacture of the countermeasure or to provide specifications for the countermeasure.

''(C) PRESIDENTIAL APPROVAL.—If the President approves a proposal under subparagraph (A), the Homeland Security Secretary and the Secretary shall make known to persons who may respond to a call for the countermeasure involved—

''(i) the call for the countermeasure;

''(ii) specifications for the countermeasure under subparagraph (B); and

''(iii) the commitment described in subparagraph (A)(ii).

''(5) SECRETARY'S DETERMINATION OF COUNTERMEASURES APPROPRIATE FOR FUNDING FROM SPECIAL RESERVE FUND.—

''(A) IN GENERAL.—The Secretary, in accordance with the provisions of this paragraph, shall identify specific security countermeasures that the Secretary determines, in consultation with the Homeland Security Secretary, to be appropriate for inclusion in the stockpile under subsection (a) pursuant to procurements made with amounts in the special reserve fund under paragraph (10) (referred to in this subsection individually as a 'procurement under this subsection').

''(B) REQUIREMENTS.—In making a determination under subparagraph (A) with respect to a security countermeasure, the Secretary shall determine and consider the following:

''(i) The quantities of the product that will be needed to meet the needs of the stockpile.

''(ii) The feasibility of production and delivery within eight years of sufficient quantities of the product.

''(iii) Whether there is a lack of a significant commercial market for the product at the time of procurement, other than as a security countermeasure.

''(6) RECOMMENDATION FOR PRESIDENT'S APPROVAL.—

''(A) RECOMMENDATION FOR PROCUREMENT.—In the case of a security countermeasure that the Secretary has, in accordance with paragraphs (3) and (5), determined to be appropriate for procurement under this subsection, the Homeland Security Secretary and the Secretary shall jointly submit to the President, in coordination with the Director of the Office of Management and Budget, a recommendation that the special reserve fund under paragraph (10) be made available for the procurement of such countermeasure.

''(B) PRESIDENTIAL APPROVAL.—The special reserve fund under paragraph (10) is available for a procurement of a security countermeasure only if the President has approved a recommendation under subparagraph (A) regarding the countermeasure.

''(C) NOTICE TO DESIGNATED CONGRESSIONAL COMMITTEES.—The Secretary and the Homeland Security Secretary shall notify the designated congressional committees of each decision of the President to approve a recommendation under subparagraph (A). Such notice shall include an explanation of the decision to make available the special reserve fund under paragraph (10) for procurement of such a countermeasure, including, where available, the number of, nature of, and other information concerning potential suppliers of such countermeasure, and whether other potential suppliers of the same or similar countermeasures were considered and rejected for procurement under this section and the reasons therefor.

''(D) SUBSEQUENT SPECIFIC COUNTERMEASURES.—Procurement under this subsection of a security countermeasure for a particular purpose does not preclude the subsequent procurement under this subsection of any other security countermeasure for such purpose if the Secretary has determined under paragraph (5)(A) that such countermeasure is appropriate for inclusion in the stockpile and if, as determined by the Secretary, such countermeasure provides improved safety or effectiveness, or for other reasons enhances preparedness to respond to threats of use of a biological, chemical, radiological, or nuclear agent. Such a determination by the Secretary is committed to agency discretion.

''(E) RULE OF CONSTRUCTION.—Recommendations and approvals under this paragraph apply solely to determinations that the special reserve fund under paragraph (10) will be made available for a procurement of a security countermeasure, and not to the substance of contracts for such procurement or other matters relating to awards of such contracts.

''(7) PROCUREMENT.—

''(A) IN GENERAL.—For purposes of a procurement under this subsection that is approved by the President under paragraph (6), the Homeland Security Secretary and the Secretary shall have responsibilities in accordance with subparagraphs (B) and (C).

''(B) INTERAGENCY AGREEMENT; COSTS.—

''(i) INTERAGENCY AGREEMENT.—The Homeland Security Secretary shall enter into an agreement with the Secretary for procurement of a security countermeasure in accordance with the provisions of this paragraph. The special reserve fund under paragraph (10) shall be available for payments made by the Secretary to a vendor for such procurement.

''(ii) OTHER COSTS.—The actual costs to the Secretary under this section, other than the costs described in clause (i), shall be paid from the appropriation provided for under subsection (f)(1).

''(C) PROCUREMENT.—

''(i) IN GENERAL.—The Secretary shall be responsible for—

''(I) arranging for procurement of a security countermeasure, including negotiating terms (including quantity, production schedule, and price) of, and entering into, contracts and cooperative agreements, and for carrying out such other activities as may reasonably be required, in accordance with the provisions of this subparagraph; and

''(II) promulgating such regulations as the Secretary determines necessary to implement the provisions of this subsection.

''(ii) CONTRACT TERMS.—A contract for procurements under this subsection shall (or, as specified below, may) include the following terms:

''(I) PAYMENT CONDITIONED ON DELIVERY.—The contract shall provide that no payment may be made until delivery has been made of a portion, acceptable to the Secretary, of the total number of units contracted for, except that, notwithstanding any other provision of law, the contract may provide that, if the Secretary determines (in the Secretary's discretion) that an advance payment is necessary to ensure success of a project, the Secretary may pay an amount, not to exceed 10 percent of the contract amount, in advance of delivery. The contract shall provide that such advance payment is required to be repaid if there is a failure to perform by the vendor under the contract. Nothing in this subclause may be construed as affecting rights of vendors under provisions of law or regulation (including the Federal Acquisition Regulation) relating to termination of contracts for the convenience of the Government.

''(II) DISCOUNTED PAYMENT.—The contract may provide for a discounted price per unit of a product that is not licensed, cleared, or approved as described in paragraph (1)(B)(i)(III)(aa) at the time of delivery, and may provide for payment of an additional amount per unit if the product becomes so licensed, cleared, or approved before the expiration date of the contract (including an additional amount per unit of product delivered before the effective date of such licensing, clearance, or approval).

''(III) CONTRACT DURATION.—The contract shall be for a period not to exceed five years, except that, in first awarding the contract, the Secretary may provide for a longer duration, not exceeding eight years, if the Secretary determines that complexities or other difficulties in performance under the contract justify such a period. The contract shall be renewable for additional periods, none of which shall exceed five years.

''(IV) STORAGE BY VENDOR.—The contract may provide that the vendor will provide storage for stocks of a product delivered to the ownership of the Federal Government under the contract, for such period and under such terms and conditions as the Secretary may specify, and in such case amounts from the special reserve fund under paragraph (10) shall be available for costs of shipping, handling, storage, and related costs for such product.

''(V) PRODUCT APPROVAL.—The contract shall provide that the vendor seek approval, clearance, or licensing of the product from the Secretary; for a timetable for the development of data and other information to support such approval, clearance, or licensing; and that the Secretary may waive part or all of this contract term on request of the vendor or on the initiative of the Secretary.

''(VI) NON-STOCKPILE TRANSFERS OF SECURITY COUNTERMEASURES.—The contract shall provide that the vendor will comply with all applicable export-related controls with respect to such countermeasure.

''(iii) AVAILABILITY OF SIMPLIFIED ACQUISITION PROCEDURES.—

''(I) IN GENERAL.—If the Secretary determines that there is a pressing need for a procurement of a specific countermeasure, the amount of the procurement under this subsection shall be deemed to be below the threshold amount specified in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), for purposes of application to such procurement, pursuant to section 302A(a) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252a(a)), of—

''(aa) section 303(g)(1)(A) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and its implementing regulations; and

''(bb) section 302A(b) of such Act (41 U.S.C. 252a(b)) and its implementing regulations.

''(II) APPLICATION OF CERTAIN PROVISIONS.—Notwithstanding subclause (I) and the provision of law and regulations referred to in such clause, each of the following provisions shall apply to procurements described in this clause to the same extent that such provisions would apply to such procurements in the absence of subclause (I):

''(aa) Chapter 37 of title 40, United States Code (relating to contract work hours and safety standards).

''(bb) Subsections (a) and (b) of section 7 of the Anti-Kickback Act of 1986 (41 U.S.C. 57(a) and (b)).

''(cc) Section 304C of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254d) (relating to the examination of contractor records).

''(dd) Section 3131 of title 40, United States Code (relating to bonds of contractors of public buildings or works).

''(ee) Subsection (a) of section 304 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(a)) (relating to contingent fees to middlemen).

''(ff) Section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962).

''(gg) Section 1354 of title 31, United States Code (relating to the limitation on the use of appropriated funds for contracts with entities not meeting veterans employment reporting requirements).

''(III) INTERNAL CONTROLS TO BE ESTABLISHED.—The Secretary shall establish appropriate internal controls for procurements made under this clause, including requirements with respect to documentation of the justification for the use of the authority provided under this paragraph with respect to the procurement involved.

''(IV) AUTHORITY TO LIMIT COMPETITION.—In conducting a procurement under this subparagraph, the Secretary may not use the authority provided for under subclause (I) to conduct a procurement on a basis other than full and open competition unless the Secretary determines that the mission of the BioShield Program under the Project BioShield Act of 2004 would be seriously impaired without such a limitation.

''(iv) PROCEDURES OTHER THAN FULL AND OPEN COMPETITION.—

''(I) IN GENERAL.—In using the authority provided in section 303(c)(1) of title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)) to use procedures other than competitive procedures in the case of a procurement under this subsection, the phrase 'available from only one responsible source' in such section 303(c)(1) shall be deemed to mean 'available from only one responsible source or only from a limited number of responsible sources'.

''(II) RELATION TO OTHER AUTHORITIES.—The authority under subclause (I) is in addition to any other authority to use procedures other than competitive procedures.

''(III) APPLICABLE GOVERNMENT-WIDE REGULATIONS.—The Secretary shall implement this clause in accordance with government-wide regulations implementing such section 303(c)(1) (including requirements that offers be solicited from as many potential sources as is practicable under the circumstances, that required notices be published, and that submitted offers be considered), as such regulations apply to procurements for which an agency has authority to use procedures other than competitive procedures when the property or services needed by the agency are available from only one responsible source or only from a limited number of responsible sources and no other type of property or services will satisfy the needs of the agency.

''(v) PREMIUM PROVISION IN MULTIPLE AWARD CONTRACTS.—

''(I) IN GENERAL.—If, under this subsection, the Secretary enters into contracts with more than one vendor to procure a security countermeasure, such Secretary may, notwithstanding any other provision of law, include in each of such contracts a provision that—

''(aa) identifies an increment of the total quantity of security countermeasure required, whether by percentage or by numbers of units; and

''(bb) promises to pay one or more specified premiums based on the priority of such vendors' production and delivery of the increment identified under item (aa), in accordance with the terms and conditions of the contract.

''(II) DETERMINATION OF GOVERNMENT'S REQUIREMENT NOT REVIEWABLE.—If the Secretary includes in each of a set of contracts a provision as described in subclause (I), such Secretary's determination of the total quantity of security countermeasure required, and any amendment of such determination, is committed to agency discretion.

''(vi) EXTENSION OF CLOSING DATE FOR RECEIPT OF PROPOSALS NOT REVIEWABLE.—A decision by the Secretary to extend the closing date for receipt of proposals for a procurement under this subsection is committed to agency discretion.

''(vii) LIMITING COMPETITION TO SOURCES RESPONDING TO REQUEST FOR INFORMATION.—In conducting a procurement under this subsection, the Secretary may exclude a source that has not responded to a request for information under section 303A(a)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a(a)(1)(B)) if such request has given notice that the Secretary may so exclude such a source.

''(8) INTERAGENCY COOPERATION.—

''(A) IN GENERAL.—In carrying out activities under this section, the Homeland Security Secretary and the Secretary are authorized, subject to subparagraph (B), to enter into interagency agreements and other collaborative undertakings with other agencies of the United States Government.

''(B) LIMITATION.—An agreement or undertaking under this paragraph shall not authorize another agency to exercise the authorities provided by this section to the Homeland Security Secretary or to the Secretary.

''(9) RESTRICTIONS ON USE OF FUNDS.—Amounts in the special reserve fund under paragraph (10) shall not be used to pay—

''(A) costs for the purchase of vaccines under procurement contracts entered into before the date of the enactment of the Project BioShield Act of 2004; or

''(B) costs other than payments made by the Secretary to a vendor for a procurement of a security countermeasure under paragraph (7).

''(10) DEFINITIONS.—

''(A) SPECIAL RESERVE FUND.—For purposes of this subsection, the term 'special reserve fund' has the meaning given such term in section 510 of the Homeland Security Act of 2002.

''(B) DESIGNATED CONGRESSIONAL COMMITTEES.—For purposes of this section, the term 'designated congressional committees' means the following committees of the Congress:

''(i) In the House of Representatives: the Committee on Energy and Commerce, the Committee on Appropriations, the Committee on Government Reform, and the Select Committee on Homeland Security (or any successor to the Select Committee).

''(ii) In the Senate: the appropriate committees.

''(d) DISCLOSURES.—No Federal agency shall disclose under section 552 of title 5, United States Code, any information identifying the location at which materials in the stockpile under subsection (a) are stored.

''(e) DEFINITION.—For purposes of subsection (a), the term 'stockpile' includes—

''(1) a physical accumulation (at one or more locations) of the supplies described in subsection (a); or

''(2) a contractual agreement between the Secretary and a vendor or vendors under which such vendor or vendors agree to provide to such Secretary supplies described in subsection (a).

''(f) AUTHORIZATION OF APPROPRIATIONS.—

''(1) STRATEGIC NATIONAL STOCKPILE.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $640,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006. Such authorization is in addition to amounts in the special reserve fund referred to in subsection (c)(10)(A).

''(2) SMALLPOX VACCINE DEVELOPMENT.—For the purpose of carrying out subsection (b), there are authorized to be appropriated $509,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.''.

(b) AMENDMENTS TO HOMELAND SECURITY ACT OF 2002.—Title V of the Homeland Security Act of 2002 (116 Stat. 2212; 6 U.S.C. 311 et seq.) is amended—

(1) in section 502(3) (6 U.S.C. 312(3))—

(A) in subparagraph (B), by striking ''the Strategic National Stockpile,''; and

(B) in subparagraph (D), by inserting '', including requiring deployment of the Strategic National Stockpile,'' after ''resources''; and

(2) by adding at the end the following:

**''SEC. 510. PROCUREMENT OF SECURITY COUNTERMEASURES FOR STRATEGIC NATIONAL STOCKPILE.**

''(a) AUTHORIZATION OF APPROPRIATIONS.—For the procurement of security countermeasures under section 319F–2(c) of the Public Health Service Act (referred to in this section as the 'security countermeasures program'), there is authorized to be appropriated up to $5,593,000,000 for the fiscal years 2004 through 2013. Of the amounts appropriated under the preceding sentence, not to exceed $3,418,000,000 may be obligated during the fiscal years 2004 through 2008, of which not to exceed $890,000,000 may be obligated during fiscal year 2004.

''(b) SPECIAL RESERVE FUND.—For purposes of the security countermeasures program, the term 'special reserve fund' means the 'Biodefense Countermeasures' appropriations account or any other appropriation made under subsection (a).

''(c) AVAILABILITY.—Amounts appropriated under subsection (a) become available for a procurement under the security countermeasures program only upon the approval by the President of such availability for the procurement in accordance with paragraph (6)(B) of such program.

''(d) RELATED AUTHORIZATIONS OF APPROPRIATIONS.—

''(1) THREAT ASSESSMENT CAPABILITIES.—For the purpose of carrying out the responsibilities of the Secretary for terror threat assessment under the security countermeasures program, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006, for the hiring of professional personnel within the Directorate for Information Analysis and Infrastructure Protection, who shall be analysts responsible for chemical, biological, radiological, and nuclear threat assessment (including but not limited to analysis of chemical, biological, radiological, and nuclear agents, the means by which such agents could be weaponized or used in a terrorist attack, and the capabilities, plans, and intentions of terrorists and other non-state actors who may have or acquire such agents). All such analysts shall meet the applicable standards and qualifications for the performance of intelligence activities promulgated by the Director of Central Intelligence pursuant to section 104 of the National Security Act of 1947.

''(2) INTELLIGENCE SHARING INFRASTRUCTURE.—For the purpose of carrying out the

acquisition and deployment of secure facilities (including information technology and physical infrastructure, whether mobile and temporary, or permanent) sufficient to permit the Secretary to receive, not later than 180 days after the date of enactment of the Project BioShield Act of 2004, all classified information and products to which the Under Secretary for Information Analysis and Infrastructure Protection is entitled under subtitle A of title II, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006.''.

(c) STOCKPILE FUNCTIONS TRANSFERRED.—

(1) IN GENERAL.—Except as provided in paragraph (2), there shall be transferred to the Secretary of Health and Human Services the functions, personnel, assets, unexpended balances, and liabilities of the Strategic National Stockpile, including the functions of the Secretary of Homeland Security relating thereto.

(2) EXCEPTIONS.—

(A) FUNCTIONS.—The transfer of functions pursuant to paragraph (1) shall not include such functions as are explicitly assigned to the Secretary of Homeland Security by this Act (including the amendments made by this Act).

(B) ASSETS AND UNEXPENDED BALANCES.—The transfer of assets and unexpended balances pursuant to paragraph (1) shall not include the funds appropriated under the heading ''BIODEFENSE COUNTERMEASURES'' in the Department of Homeland Security Appropriations Act, 2004 (Public law 108–90).

(3) CONFORMING AMENDMENT.—Section 503 of the Homeland Security Act of 2002 (6 U.S.C. 313) is amended by striking paragraph (6).

**SEC. 4. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.**

(a) IN GENERAL.—Section 564 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb-3) is amended to read as follows:

**''SEC. 564. AUTHORIZATION FOR MEDICAL PRODUCTS FOR USE IN EMERGENCIES.**

''(a) IN GENERAL.—

''(1) EMERGENCY USES.—Notwithstanding sections 505, 510(k), and 515 of this Act and section 351 of the Public Health Service Act, and subject to the provisions of this section, the Secretary may authorize the introduction into interstate commerce, during the effective period of a declaration under subsection (b), of a drug, device, or biological product intended for use in an actual or potential emergency (referred to in this section as an 'emergency use').

''(2) APPROVAL STATUS OF PRODUCT.—An authorization under paragraph (1) may authorize an emergency use of a product that—

''(A) is not approved, licensed, or cleared for commercial distribution under a provision of law referred to in such paragraph (referred to in this section as an 'unapproved product'); or

''(B) is approved, licensed, or cleared under such a provision, but which use is not under such provision an approved, licensed, or cleared use of the product (referred to in this section as an 'unapproved use of an approved product').

''(3) RELATION TO OTHER USES.—An emergency use authorized under paragraph (1) for a product is in addition to any other use that is authorized for the product under a provision of law referred to in such paragraph.

''(4) DEFINITIONS.—For purposes of this section:

''(A) The term 'biological product' has the meaning given such term in section 351 of the Public Health Service Act.

''(B) The term 'emergency use' has the meaning indicated for such term in paragraph (1).

''(C) The term 'product' means a drug, device, or biological product.

''(D) The term 'unapproved product' has the meaning indicated for such term in paragraph (2)(A).

''(E) The term 'unapproved use of an approved product' has the meaning indicated for such term in paragraph (2)(B).

''(b) DECLARATION OF EMERGENCY.—

''(1) IN GENERAL.—The Secretary may declare an emergency justifying the authorization under this subsection for a product on the basis of—

''(A) a determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a specified biological, chemical, radiological, or nuclear agent or agents;

''(B) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to United States military forces of attack with a specified biological, chemical, radiological, or nuclear agent or agents; or

''(C) a determination by the Secretary of a public health emergency under section 319 of the Public Health Service Act that affects, or has a significant potential to affect, national security, and that involves a specified biological, chemical, radiological, or nuclear agent or agents, or a specified disease or condition that may be attributable to such agent or agents.

''(2) TERMINATION OF DECLARATION.—

''(A) IN GENERAL.—A declaration under this subsection shall terminate upon the earlier of—

''(i) a determination by the Secretary, in consultation as appropriate with the Secretary of Homeland Security or the Secretary of Defense, that the circumstances described in paragraph (1) have ceased to exist; or

''(ii) the expiration of the one-year period beginning on the date on which the declaration is made.

''(B) RENEWAL.—Notwithstanding subparagraph (A), the Secretary may renew a declaration under this subsection, and this paragraph shall apply to any such renewal.

''(C) DISPOSITION OF PRODUCT.—If an authorization under this section with respect to an unapproved product ceases to be effective as a result of a termination under subparagraph (A) of this paragraph, the Secretary shall consult with the manufacturer of such product with respect to the appropriate disposition of the product.

''(3) ADVANCE NOTICE OF TERMINATION.—The Secretary shall provide advance notice that a declaration under this subsection will be terminated. The period of advance notice shall be a period reasonably determined to provide—

''(A) in the case of an unapproved product, a sufficient period for disposition of the product, including the return of such product (except such quantities of product as are necessary to provide for continued use consistent with subsection (f)(2)) to the manufacturer (in the case of a manufacturer that chooses to have such product returned); and

''(B) in the case of an unapproved use of an approved product, a sufficient period for the disposition of any labeling, or any information under subsection (e)(2)(B)(ii), as the case may be, that was provided with respect to the emergency use involved.

''(4) PUBLICATION.—The Secretary shall promptly publish in the Federal Register each declaration, determination, advance notice of termination, and renewal under this subsection.

''(c) CRITERIA FOR ISSUANCE OF AUTHORIZATION.—The Secretary may issue an authorization under this section with respect to the emergency use of a product only if, after consultation with the Director of the National Institutes of Health and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the circumstances of the emergency involved), the Secretary concludes—

''(1) that an agent specified in a declaration under subsection (b) can cause a serious or life-threatening disease or condition;

''(2) that, based on the totality of scientific evidence available to the Secretary, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that—

''(A) the product may be effective in diagnosing, treating, or preventing—

''(i) such disease or condition; or

''(ii) a serious or life-threatening disease or condition caused by a product authorized under this section, approved or cleared under this Act, or licensed under section 351 of the Public Health Service Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and

''(B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product;

''(3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; and

''(4) that such other criteria as the Secretary may by regulation prescribe are satisfied.

''(d) SCOPE OF AUTHORIZATION.—An authorization of a product under this section shall state—

''(1) each disease or condition that the product may be used to diagnose, prevent, or treat within the scope of the authorization;

''(2) the Secretary's conclusions, made under subsection (c)(2)(B), that the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product; and

''(3) the Secretary's conclusions, made under subsection (c), concerning the safety and potential effectiveness of the product in diagnosing, preventing, or treating such diseases or conditions, including an assessment of the available scientific evidence.

''(e) CONDITIONS OF AUTHORIZATION.—

''(1) UNAPPROVED PRODUCT.—

''(A) REQUIRED CONDITIONS.—With respect to the emergency use of an unapproved product, the Secretary, to the extent practicable given the circumstances of the emergency, shall, for a person who carries out any activity for which the authorization is issued, establish such conditions on an authorization under this section as the Secretary finds necessary or appropriate to protect the public health, including the following:

''(i) Appropriate conditions designed to ensure that health care professionals administering the product are informed—

''(I) that the Secretary has authorized the emergency use of the product;

''(II) of the significant known and potential benefits and risks of the emergency use of the product, and of the extent to which such benefits and risks are unknown; and

''(III) of the alternatives to the product that are available, and of their benefits and risks.

''(ii) Appropriate conditions designed to ensure that individuals to whom the product is administered are informed—

''(I) that the Secretary has authorized the emergency use of the product;

''(II) of the significant known and potential benefits and risks of such use, and of the

extent to which such benefits and risks are unknown; and

''(III) of the option to accept or refuse administration of the product, of the consequences, if any, of refusing administration of the product, and of the alternatives to the product that are available and of their benefits and risks.

''(iii) Appropriate conditions for the monitoring and reporting of adverse events associated with the emergency use of the product.

''(iv) For manufacturers of the product, appropriate conditions concerning recordkeeping and reporting, including records access by the Secretary, with respect to the emergency use of the product.

''(B) AUTHORITY FOR ADDITIONAL CONDITIONS.—With respect to the emergency use of an unapproved product, the Secretary may, for a person who carries out any activity for which the authorization is issued, establish such conditions on an authorization under this section as the Secretary finds necessary or appropriate to protect the public health, including the following:

''(i) Appropriate conditions on which entities may distribute the product with respect to the emergency use of the product (including limitation to distribution by government entities), and on how distribution is to be performed.

''(ii) Appropriate conditions on who may administer the product with respect to the emergency use of the product, and on the categories of individuals to whom, and the circumstances under which, the product may be administered with respect to such use.

''(iii) Appropriate conditions with respect to the collection and analysis of information, during the period when the authorization is in effect, concerning the safety and effectiveness of the product with respect to the emergency use of such product.

''(iv) For persons other than manufacturers of the product, appropriate conditions concerning recordkeeping and reporting, including records access by the Secretary, with respect to the emergency use of the product.

''(2) UNAPPROVED USE.—With respect to the emergency use of a product that is an unapproved use of an approved product:

''(A) For a manufacturer of the product who carries out any activity for which the authorization is issued, the Secretary shall, to the extent practicable given the circumstances of the emergency, establish conditions described in clauses (i) and (ii) of paragraph (1)(A), and may establish conditions described in clauses (iii) and (iv) of such paragraph.

''(B)(i) If the authorization under this section regarding the emergency use authorizes a change in the labeling of the product, but the manufacturer of the product chooses not to make such change, such authorization may not authorize distributors of the product or any other person to alter or obscure the labeling provided by the manufacturer.

''(ii) In the circumstances described in clause (i), for a person who does not manufacture the product and who chooses to act under this clause, an authorization under this section regarding the emergency use shall, to the extent practicable given the circumstances of the emergency, authorize such person to provide appropriate information with respect to such product in addition to the labeling provided by the manufacturer, subject to compliance with clause (i). While the authorization under this section is effective, such additional information shall not be considered labeling for purposes of section 502.

''(C) The Secretary may establish with respect to the distribution and administration of the product for the unapproved use conditions no more restrictive than those established by the Secretary with respect to the distribution and administration of the product for the approved use.

''(3) GOOD MANUFACTURING PRACTICE.—With respect to the emergency use of a product for which an authorization under this section is issued (whether an unapproved product or an unapproved use of an approved product), the Secretary may waive or limit, to the extent appropriate given the circumstances of the emergency, requirements regarding current good manufacturing practice otherwise applicable to the manufacture, processing, packing, or holding of products subject to regulation under this Act, including such requirements established under section 501.

''(4) ADVERTISING.—The Secretary may establish conditions on advertisements and other promotional descriptive printed matter that relate to the emergency use of a product for which an authorization under this section is issued (whether an unapproved product or an unapproved use of an approved product), including, as appropriate—

''(A) with respect to drugs and biological products, requirements applicable to prescription drugs pursuant to section 502(n); or

''(B) with respect to devices, requirements applicable to restricted devices pursuant to section 502(r).

''(f) DURATION OF AUTHORIZATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), an authorization under this section shall be effective until the earlier of the termination of the declaration under subsection (b) or a revocation under subsection (g).

''(2) CONTINUED USE AFTER END OF EFFECTIVE PERIOD.—Notwithstanding the termination of the declaration under subsection (b) or a revocation under subsection (g), an authorization shall continue to be effective to provide for continued use of an unapproved product with respect to a patient to whom it was administered during the period described by paragraph (1), to the extent found necessary by such patient's attending physician.

''(g) REVOCATION OF AUTHORIZATION.—

''(1) REVIEW.—The Secretary shall periodically review the circumstances and the appropriateness of an authorization under this section.

''(2) REVOCATION.—The Secretary may revoke an authorization under this section if the criteria under subsection (c) for issuance of such authorization are no longer met or other circumstances make such revocation appropriate to protect the public health or safety.

''(h) PUBLICATION; CONFIDENTIAL INFORMATION.—

''(1) PUBLICATION.—The Secretary shall promptly publish in the Federal Register a notice of each authorization, and each termination or revocation of an authorization under this section, and an explanation of the reasons therefor (which may include a summary of data or information that has been submitted to the Secretary in an application under section 505(i) or section 520(g), even if such summary may indirectly reveal the existence of such application).

''(2) CONFIDENTIAL INFORMATION.—Nothing in this section alters or amends section 1905 of title 18, United States Code, or section 552(b)(4) of title 5 of such Code.

''(i) ACTIONS COMMITTED TO AGENCY DISCRETION.—Actions under the authority of this section by the Secretary, by the Secretary of Defense, or by the Secretary of Homeland Security are committed to agency discretion.

''(j) RULES OF CONSTRUCTION.—The following applies with respect to this section:

''(1) Nothing in this section impairs the authority of the President as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution.

''(2) Nothing in this section impairs the authority of the Secretary of Defense with respect to the Department of Defense, including the armed forces, under other provisions of Federal law.

''(3) Nothing in this section (including any exercise of authority by a manufacturer under subsection (e)(2)) impairs the authority of the United States to use or manage quantities of a product that are owned or controlled by the United States (including quantities in the stockpile maintained under section 319F–2 of the Public Health Service Act).

''(k) RELATION TO OTHER PROVISIONS.—If a product is the subject of an authorization under this section, the use of such product within the scope of the authorization shall not be considered to constitute a clinical investigation for purposes of section 505(i), section 520(g), or any other provision of this Act or section 351 of the Public Health Service Act.

''(l) OPTION TO CARRY OUT AUTHORIZED ACTIVITIES.—Nothing in this section provides the Secretary any authority to require any person to carry out any activity that becomes lawful pursuant to an authorization under this section, and no person is required to inform the Secretary that the person will not be carrying out such activity, except that a manufacturer of a sole-source unapproved product authorized for emergency use shall report to the Secretary within a reasonable period of time after the issuance by the Secretary of such authorization if such manufacturer does not intend to carry out any activity under the authorization. This section only has legal effect on a person who carries out an activity for which an authorization under this section is issued. This section does not modify or affect activities carried out pursuant to other provisions of this Act or section 351 of the Public Health Service Act. Nothing in this subsection may be construed as restricting the Secretary from imposing conditions on persons who carry out any activity pursuant to an authorization under this section.''.

(b) REPEAL OF TERMINATION PROVISION.—Subsection (d) of section 1603 of the National Defense Authorization Act for Fiscal Year 2004 (10 U.S.C. 1107a note) is repealed.

**SEC. 5. REPORTS REGARDING AUTHORITIES UNDER THIS ACT.**

(a) SECRETARY OF HEALTH AND HUMAN SERVICES.—

(1) ANNUAL REPORTS ON PARTICULAR EXERCISES OF AUTHORITY.—

(A) RELEVANT AUTHORITIES.—The Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall submit reports in accordance with subparagraph (B) regarding the exercise of authority under the following provisions of law:

(i) With respect to section 319F–1 of the Public Health Service Act (as added by section 2 of this Act):

(I) Subsection (b)(1) (relating to increased simplified acquisition threshold).

(II) Subsection (b)(2) (relating to procedures other than full and open competition).

(III) Subsection (c) (relating to expedited peer review procedures).

(ii) With respect to section 319F–2 of the Public Health Service Act (as added by section 3 of this Act):

(I) Subsection (c)(7)(C)(iii) (relating to simplified acquisition procedures).

(II) Subsection (c)(7)(C)(iv) (relating to procedures other than full and open competition).

(III) Subsection (c)(7)(C)(v) (relating to premium provision in multiple-award contracts).

(iii) With respect to section 564 of the Federal Food, Drug, and Cosmetic Act (as added by section 4 of this Act):

(I) Subsection (a)(1) (relating to emergency uses of certain drugs and devices).

(II) Subsection (b)(1) (relating to a declaration of an emergency).

(III) Subsection (e) (relating to conditions on authorization).

(B) CONTENTS OF REPORTS.—The Secretary shall annually submit to the designated congressional committees a report that summarizes—

(i) the particular actions that were taken under the authorities specified in subparagraph (A), including, as applicable, the identification of the threat agent, emergency, or the biomedical countermeasure with respect to which the authority was used;

(ii) the reasons underlying the decision to use such authorities, including, as applicable, the options that were considered and rejected with respect to the use of such authorities;

(iii) the number of, nature of, and other information concerning the persons and entities that received a grant, cooperative agreement, or contract pursuant to the use of such authorities, and the persons and entities that were considered and rejected for such a grant, cooperative agreement, or contract, except that the report need not disclose the identity of any such person or entity; and

(iv) whether, with respect to each procurement that is approved by the President under section 319F–2(c)(6) of the Public Health Service Act (as added by section 3 of this Act), a contract was entered into within one year after such approval by the President.

(2) ANNUAL SUMMARIES REGARDING CERTAIN ACTIVITY.—The Secretary shall annually submit to the designated congressional committees a report that summarizes the activity undertaken pursuant to the following authorities under section 319F–1 of the Public Health Service Act (as added by section 2 of this Act):

(A) Subsection (b)(3) (relating to increased micropurchase threshold).

(B) Subsection (d) (relating to authority for personal services contracts).

(C) Subsection (e) (relating to streamlined personnel authority).

With respect to subparagraph (B), the report shall include a provision specifying, for the one-year period for which the report is submitted, the number of persons who were paid amounts greater than $100,000 and the number of persons who were paid amounts between $50,000 and $100,000.

(3) REPORT ON ADDITIONAL BARRIERS TO PROCUREMENT OF SECURITY COUNTERMEASURES.—Not later than one year after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of Homeland Security, shall report to the designated congressional committees any potential barriers to the procurement of security countermeasures that have not been addressed by this Act.

(b) GENERAL ACCOUNTING OFFICE REVIEW.—

(1) IN GENERAL.—Four years after the date of the enactment of this Act, the Comptroller General of the United States shall initiate a study—

(A)(i) to review the Secretary of Health and Human Services' utilization of the authorities granted under this Act with respect to simplified acquisition procedures, procedures other than full and open competition, increased micropurchase thresholds, personal services contracts, streamlined personnel authority, and the purchase of security countermeasures under the special reserve fund; and

(ii) to make recommendations to improve the utilization or effectiveness of such authorities in the future;

(B)(i) to review and assess the adequacy of the internal controls instituted by such Secretary with respect to such authorities, where required by this Act; and

(ii) to make recommendations to improve the effectiveness of such controls;

(C)(i) to review such Secretary's utilization of the authority granted under this Act to authorize an emergency use of a biomedical countermeasure, including the means by which the Secretary determines whether and under what conditions any such authorizations should be granted and the benefits and adverse impacts, if any, resulting from the use of such authority; and

(ii) to make recommendations to improve the utilization or effectiveness of such authority and to enhance protection of the public health;

(D) to identify any purchases or procurements that would not have been made or would have been significantly delayed except for the authorities described in subparagraph (A)(i); and

(E)(i) to determine whether and to what extent activities undertaken pursuant to the biomedical countermeasure research and development authorities established in this Act have enhanced the development of biomedical countermeasures affecting national security; and

(ii) to make recommendations to improve the ability of the Secretary to carry out these activities in the future.

(2) ADDITIONAL PROVISIONS REGARDING DETERMINATION ON DEVELOPMENT OF BIOMEDICAL COUNTERMEASURES AFFECTING NATIONAL SECURITY.—In the report under paragraph (1), the determination under subparagraph (E) of such paragraph shall include—

(A) the Comptroller General's assessment of the current availability of countermeasures to address threats identified by the Secretary of Homeland Security;

(B) the Comptroller General's assessment of the extent to which programs and activities under this Act will reduce any gap between the threat and the availability of countermeasures to an acceptable level of risk; and

(C)(i) the Comptroller General's assessment of threats to national security that are posed by technology that will enable, during the 10-year period beginning on the date of the enactment of this Act, the development of antibiotic resistant, mutated, or bioengineered strains of biological agents; and

(ii) recommendations on short-term and long-term governmental strategies for addressing such threats, including recommendations for Federal policies regarding research priorities, the development of countermeasures, and investments in technology.

(3) REPORT.—A report providing the results of the study under paragraph (1) shall be submitted to the designated congressional committees not later than five years after the date of the enactment of this Act.

(c) REPORT REGARDING BIOCONTAINMENT FACILITIES.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Health and Human Services shall jointly report to the designated congressional committees whether there is a lack of adequate large-scale biocontainment facilities necessary for the testing of security countermeasures in accordance with Food and Drug Administration requirements.

(d) DESIGNATED CONGRESSIONAL COMMITTEES.—For purposes of this section, the term ''designated congressional committees'' means the following committees of the Congress:

(1) In the House of Representatives: the Committee on Energy and Commerce, the Committee on Appropriations, the Committee on Government Reform, and the Select Committee on Homeland Security (or any successor to the Select Committee).

(2) In the Senate: the appropriate committees.

**SEC. 6. OUTREACH.**

The Secretary of Health and Human Services shall develop outreach measures to ensure to the extent practicable that diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Black or African Americans, American Indians, Appalachian Americans, Alaska Natives, Asians, Native Hawaiians, other Pacific Islanders, Hispanics or Latinos, or other underrepresented populations, are meaningfully aware of available research and development grants, contracts, cooperative agreements, and procurements conducted under sections 2 and 3 of this Act.

**SEC. 7. RECOMMENDATION FOR EXPORT CONTROLS ON CERTAIN BIOMEDICAL COUNTERMEASURES.**

Upon the award of any grant, contract, or cooperative agreement under section 2 or 3 of this Act for the research, development, or procurement of a qualified countermeasure or a security countermeasure (as those terms are defined in this Act), the Secretary of Health and Human Services shall, in consultation with the heads of other appropriate Federal agencies, determine whether the countermeasure involved in such grant, contract, or cooperative agreement is subject to existing export-related controls and, if not, may make a recommendation to the appropriate Federal agency or agencies that such countermeasure should be included on the list of controlled items subject to such controls.

**SEC. 8. ENSURING COORDINATION, COOPERATION AND THE ELIMINATION OF UNNECESSARY DUPLICATION IN PROGRAMS DESIGNED TO PROTECT THE HOMELAND FROM BIOLOGICAL, CHEMICAL, RADIOLOGICAL, AND NUCLEAR AGENTS.**

(a) ENSURING COORDINATION OF PROGRAMS.—The Secretary of Health and Human Services, the Secretary of Homeland Security, and the Secretary of Defense shall ensure that the activities of their respective Departments coordinate, complement, and do not unnecessarily duplicate programs to identify potential domestic threats from biological, chemical, radiological or nuclear agents, detect domestic incidents involving such agents, analyze such incidents, and develop necessary countermeasures. The aforementioned Secretaries shall further ensure that information and technology possessed by the Departments relevant to these activities are shared with the other Departments.

(b) DESIGNATION OF AGENCY COORDINATION OFFICER.—The Secretary of Health and Human Services, the Secretary of Homeland Security, and the Secretary of Defense shall each designate an officer or employee of their respective Departments who shall coordinate, through regular meetings and communications, with the other aforementioned Departments such programs and activities carried out by their Departments.

**SEC. 9. AUTHORITY OF THE SECRETARY OF HEALTH AND HUMAN SERVICES DURING NATIONAL EMERGENCIES.**

Section 1135(b) of the Social Security Act (42 U.S.C. 1320b-5(b)) is amended—

(1) by striking paragraph (3) and inserting the following:

''(3) actions under section 1867 (relating to examination and treatment for emergency medical conditions and women in labor) for—

''(A) a transfer of an individual who has not been stabilized in violation of subsection

(c) of such section if the transfer is necessitated by the circumstances of the declared emergency in the emergency area during the emergency period; or

''(B) the direction or relocation of an individual to receive medical screening in an alternate location pursuant to an appropriate State emergency preparedness plan;'';

(2) in paragraph (5), by striking ''and'' at the end;

(3) in paragraph (6), by striking the period and inserting ''; and'';

(4) by inserting after paragraph (6), the following:

''(7) sanctions and penalties that arise from noncompliance with the following requirements (as promulgated under the authority of section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 note)—

''(A) section 164.510 of title 45, Code of Federal Regulations, relating to—

''(i) requirements to obtain a patient's agreement to speak with family members or friends; and

''(ii) the requirement to honor a request to opt out of the facility directory;

''(B) section 164.520 of such title, relating to the requirement to distribute a notice; or

''(C) section 164.522 of such title, relating to—

''(i) the patient's right to request privacy restrictions; and

''(ii) the patient's right to request confidential communications.''; and

(5) by adding at the end the following: ''A waiver or modification provided for under paragraph (3) or (7) shall only be in effect if such actions are taken in a manner that does not discriminate among individuals on the basis of their source of payment or of their ability to pay, and shall be limited to a 72-hour period beginning upon implementation of a hospital disaster protocol. A waiver or modification under such paragraph (7) shall be withdrawn after such period and the provider shall comply with the requirements under such paragraph for any patient still under the care of the provider.''.

The SPEAKER pro tempore. Pursuant to the order of the House of Tuesday, July 13, 2004, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 30 minutes. The gentleman from Virginia (Mr. TOM DAVIS), the gentleman from California (Mr. WAXMAN), the gentlewoman from Washington (Ms. DUNN), and the gentleman from Texas (Mr. TURNER) each will control 7½ minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 15.

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

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

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

Mr. BARTON of Texas. Mr. Speaker, the Senate recently joined the House in passing one of President Bush's top legislative initiatives for this Congress, Project Bioshield. The House passed a similar bill in July 2003 by a strong bipartisan vote of 421 to 2. I want to commend our colleagues in the Senate for working with us after the House passed its legislation to provide a bill that will be acceptable to both bodies.

The bill largely reflects H.R. 2122, the bill that passed the House last year. Revisions in the Senate were made in close consultation with the House committees of jurisdiction. This is a bicameral and bipartisan product.

On the House side, I want to thank the gentleman from Louisiana (Mr. TAUZIN), my predecessor as chairman of the committee, who is on the floor this evening, for his strong leadership; and I would also like to thank the gentleman from California (Mr. COX), the gentleman from Virginia (Mr. TOM DAVIS), the gentleman from Michigan (Mr. DINGELL), the gentleman from Texas (Mr. TURNER), and the gentleman from California (Mr. WAXMAN) for their cooperation and hard work on this bill.

The bipartisan spirit reflected in this legislation is similar to the effort of the last Congress on the Public Health Security and Bioterrorism Preparedness and Response Act and also on the Homeland Security Act. We can be proud of this product, and America can be confident in our commitment to make the right investments and smart policy choices to meet the challenges and to protect our Nation's public health.

Project Bioshield will spur the research and development of new vaccines, new drugs and other countermeasures to deal with those biological, chemical, nuclear, or radiological agents that pose a material threat to our national security. This list includes anthrax, the plague, ebola and other similar viruses, many of which lack any effective treatment or antidote today.

The bill provides increased flexibility in a range of areas, from government contracting rules and peer review to personnel matters, in order to speed up government-sponsored research and development into these deadly agents.

It would also authorize a special reserve fund of money, authorized in advance, for the government's purchase of those countermeasures that ultimately are developed in response to the President's call. This latter feature is the most important because, without this clear commitment of funding in future years, private sector companies that are capable of such development will not undertake the heavy investment and risk associated with developing products that deal with agents that do not affect significant populations today and hopefully never will. Congress has already provided the advance appropriation of $5.6 billion over the next 10 years for this purpose, consistent with our authorization in the House budget resolution.

The bill before us also provides new authority to the Secretary of Health and Human Services to authorize, in times of emergency, the use of unapproved products whose benefits in treating or preventing infection outweigh the risk of using those products. Under current law, the only way an individual can receive an unapproved product is pursuant to a clinical investigation. In a time of national emergency, however, it may be necessary to give such investigational drugs on a large-scale basis to millions of Americans. The bill before us today says that if there is such an emergency, if no adequate alternative therapy is available, then and only then the Secretary can authorize the use of such a drug, device, or vaccine in a flexible manner.

I applaud the leadership of President Bush and the truly bipartisan work of both bodies across multiple committees of jurisdiction to protect our country and to promote public health security from the many new dangers that we face today.

I would urge my colleagues to support the bill and look forward to President Bush signing into law another of his major homeland security initiatives.

At this point in the RECORD, I will insert an exchange of letters between the gentleman from California (Mr. THOMAS) and myself on this subject.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS
*Washington, DC, July 13, 2004.*

The Hon. JOE BARTON,
*Chairman, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC.*

DEAR CHAIRMAN BARTON: I am writing concerning S. 15, the ''Project Bioshield Act of 2004,'' which is scheduled for floor consideration on Wednesday, July 14, 2004.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning health issues. Specifically, Section 9 of the bill provides a waiver for application of Section 1867 of the Social Security Act, known as the Examination and Treatment for Emergency Medical Conditions and Women in Labor Act. Section 9 allows hospitals and other providers to transfer unstable patients during a declared emergency period or pursuant to a state emergency preparedness plan by waiving hospital requirements under Medicare, 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 forego 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 S. 15 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.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
*Washington, DC, July 14, 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 S. 15, the '' Project BioShield Act of 2004.'' As you noted, the bill contains provisions that fall within the Rule X jurisdiction of the Committee on Ways and Means.

I appreciate your willingness not to seek a referral on S. 15. I agree that your decision to forego action on the bill will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation.

I will include a copy of your letter and this response in the Congressional Record during consideration of S. 15 on the House floor.

Sincerely,

JOE BARTON,
*Chairman.*

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

Mr. BROWN of Ohio. Mr. Speaker, I yield myself as much time as I may consume.

The United States, and the global community, can only benefit from the development of bioterrorism countermeasures.

By rendering biological attacks less lethal and, therefore, less attractive to would-be terrorists, new countermeasures serve a dual purpose. They are both an antidote and a deterrent to future attacks.

For the sake of national and international security, it makes sense to invest in both basic and advanced research aimed at producing new bioterrorism countermeasures. When an opportunity to produce one of these countermeasures presents itself, it makes sense to capitalize on that opportunity quickly.

That is the logic behind this legislation. It establishes an expedited process for Federal support of countermeasure research and a procurement process to encourage private sector investment.

But Project Bioshield is not a blank check. Congress has a responsibility to weigh competing priorities and set funding levels appropriately. In that context, Congress cannot rest easy once we have passed this bill.

Bioterrorism funding is certainly important, the legislation before us today is certainly important, but our investment in bioterrorism must not come at the expense of research on cancer and research on Alzheimer's and muscular dystrophy and AIDS and other significant health threats.

If investing in Bioshield means diverting from other promising medical research, TB, multiple sclerosis, all other kinds of medical research, we are not making progress. We are, in fact, making trade-offs; trade-offs that set back the clock on cures for deadly and disabling diseases; trade-offs the public did not bargain for and should not abide.

The last thing Congress or the President should do is assure the public that we are doing everything we can more than ever to find cures for major illnesses like cancer and Parkinson's when actually we are choking off funding for medical research.

During his 2000 election campaign, President Bush said, ''As President, I will fund and lead a medical moonshot to reach far beyond what seems possible today.'' Apparently it was a short trip.

According to a White House budget memo recently leaked to the press, if President Bush wins the election this fall, one of his first actions will be to propose a $587 million cut in funding for the National Institutes of Health.

Medical researchers tell us that just to sustain the pace of medical progress that NIH has fostered, the agency's budget must increase 10 percent annually, something I hope everyone here would agree with, even though the President does not. Compared to annual, double-digit increases in the NIH budget, a cut in funding is a major step backward that would undermine promising medical research.

Finding ways to prevent, to treat, and to cure disease is an enduring national priority. Interest in that should not wax and wane. That is why we do not double NIH funding, which we did bipartisanly between 1999 under President Clinton, into 2003 still supported by President Bush, but then reduced that increase and then proposed a cut in funding. Our investment must remain constant.

We have a responsibility to prepare the country for a possible bioterrorist attack, but we also have a responsibility to maintain strong support for other medical research priorities.

I urge my colleagues to support this legislation. In creating Project Bioshield, it gives America a promising weapon in the battle against terrorism.

But bioterrorism, as I have said, is just one enemy in a much broader war against disease and disability. If we fund Project Bioshield, as we should, at the expense of life-saving and life-improving NIH research, we risk winning the battle and losing the war.

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

Mr. BARTON of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. TAUZIN), the distinguished former chairman of the Committee on Energy and Commerce, who in a very true sense is a principal author of this piece of legislation and who has toiled tirelessly for the last several years to have it passed.

□ 1730

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding me this time; and, on a very bipartisan note, let me first thank the Members of this House and of the Senate, and particularly my friend from Massachusetts, Mr. KENNEDY, for the great success we had in passing the Public Health Security Act and the Bioterrorism Preparedness and Response Act.

As my colleagues will recall, right after 9–11 it became clear to us as a Nation that we were under serious threat of attacks from agents like anthrax or perhaps even such horrible agents as botulism toxin or ebola or other similar viruses and that we were so unprepared in this country for that kind of attack that we got together, in a bipartisan fashion, and immediately passed an act to bolster the competence and the ability of the Center for Disease Control and of agents across the country to better respond to an attack of that nature.

Since the passage of those two very important actions that have better armed our country for this danger that we face perhaps even more increasingly as years go by, it has come to our attention that there were some holes even in that great act. The most important hole which this act seeks to fill is the concern we have that when it comes to some of these agents, whether they be a botulism toxin agent, ebola, or whether it is a radioactive type of attack we have to deal with in this country, that we have not done enough research and development into the antidotes, the vaccines, the treatments that victims of these attacks might find are critically necessary to save lives and prevent injury.

I do not have to tell my colleagues that this House and the Senate recently received another briefing on national security threats. The concern levels are up about an attack that might occur in this country from al Qaeda or other enemies of this country. As we fight them overseas, they are thinking about planning an attack on us here at home again. We know that. We know the attack may come in a place we do not know, in a place we are unprepared for, and it might involve radiological materials or it might involve some horrible virus or some agent the likes of which we are unprepared to deal with.

This bill seeks to make sure that the private sector does the work along with government to find the antidotes, the treatment for these kinds of agents that might be used in such an attack which might not otherwise be developed in the private sector.

What is the incentive today to develop a vaccine for ebola or for the plague when there is no real market for such a vaccine in this country? This bill and the appropriations we have already provided in the advance funds, some $5.6 billion, is designed to make sure that that research and development occurs and that those vaccines and those treatments are indeed available to our country in case the worst happens and we are subject to that kind of an attack by al Qaeda or other enemies of this country within our borders as we saw on 9–11.

Secondly, the bill tries to do something else, and that is to say we are going to change our law a little bit when it comes to the government's approval of treatment and/or it might be

a vaccine or some treatment that has not yet been approved by the Food and Drug Administration but yet has a greater ability to cure and help people than the risk involved with allowing it to be used. In other words, we are streamlining the law to make sure, if we do come under attack, if there is some vaccine, some treatment under study that has a lot of promise but has not yet been approved, that we are not forbidden to use it to help people who might be hurt or in need of that kind of treatment.

In short, this Bioshield Act, an incredibly important new step in protecting our country at a time when we are increasingly learning of the hatred and evil that exists out there that wants to inflict more damage on our country, this new act, passed again in, I hope, a very strong bipartisan way, reaching the President's desk for his signature very soon, I hope, will add this new element of protection for our country that Senator KENNEDY and I tried to provide in the first bioterrorism act for our Nation following 9–11.

This is an important step in protecting our country at a time when we are under, as you know, this increasing warning that these evil individuals are thinking about planning and trying to figure out how they might hurt us again. It is a critical two-step process in making sure that we have the protective vaccines and treatments in place when the worst might happen to our people. So I urge its adoption.

I want to congratulate all of those who have worked on completing the conference on this bill with the Senate. I want to thank the other body for its cooperation. The sooner this reaches the President's desk, the sooner all of us can feel a little better this country is becoming safer as fast as we can from the threat of these kind of agents, and I urge its final approval by this House.

The SPEAKER pro tempore (Mr. FOLEY). The gentlewoman from New York (Mrs. MALONEY) is recognized on behalf of the Committee on Government Reform.

Mrs. MALONEY. Mr. Speaker, I do claim the time on behalf of the Committee on Government Reform, and I yield myself such time as I may consume.

Mr. Speaker, we have before us today S. 15, the Project Bioshield Act. This bill is substantially the same as H.R. 2122, which passed this House on July 16 of last year by a vote of 421 to 2. This bill is, in essence, the conference report on the bill and includes some minor improvements made by the Senate. I urge Members to support this measure as well.

Given the serious threat of bioterrorism, the development of effective countermeasures to biological agents is vital to our national security. The goal of Project Bioshield is to encourage the development of these projects. I fully support the intent of this legislation. I also agree with its premise, that when the market cannot foster the development of critical products by itself, the government must rise to the challenge.

The bill before us today includes several significant improvements from earlier proposals. For example, it includes important protections against waste and abuse that are standard for government contracts, such as preserving the government's right to review contractors' books and records.

The bill also permits the use of certain streamlined procurement procedures, but only if the Secretary of Health and Human Services determines that there is a pressing need to do so.

The Senate bill appropriately strengthens some of these provisions and also allows for recovery by the government in the event of grossly negligent or reckless conduct on the part of a contractor.

In emergency situations, we should not impede the development of necessary products. However, any exceptions from standard procurement procedures should be made only when necessary and should be subject to review. This proposal preserves that important standard.

The provisions of Bioshield authorizing the emergency distribution of unapproved drugs and devices, whose risks and benefits are not fully tested, impose an unprecedented responsibility on the government. FDA must be vigilant in protecting the public against unnecessary risks from these products. In part because of these concerns, the bill requires that health care providers and patients be informed that the products have not been approved and be informed of their risks.

The bill also requires that manufacturers monitor and report adverse reactions to the products and keep other appropriate records about the use of the products. These conditions are essential for the safe use of unapproved products, and they should be imposed in all cases except in truly extraordinary circumstances.

In addition, the HHS secretary is authorized to limit the distribution of the products, to limit who may administer the products, to waive good manufacturing practice requirements only when absolutely necessary, and to require recordkeeping by others in the chain of distribution. We expect the Secretary to consider the needs for these additional conditions in each case and to impose them to the full extent necessary to protect the public from the risk of these products.

The bill before us today is an improvement over the original proposal and represents a bipartisan consensus of the House and the Senate and the White House. It deserves our support.

Mr. Speaker, I ask unanimous consent to yield the balance of my time to the gentleman from Texas (Mr. TURNER) as the ranking minority member of the Select Committee on Homeland Security and that he be allowed to control that time.

The SPEAKER pro tempore. Without objection, the Chair will recognize the gentleman from Texas (Mr. TURNER) for the time remaining to the representative from the Committee on Government Reform.

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I also ask unanimous consent to yield the remainder of my time to the ranking member of the Select Committee on Homeland Security, the gentleman from Texas (Mr. TURNER), and that he be allowed to control that time.

The SPEAKER pro tempore. Without objection, the Chair will recognize the gentleman from Texas (Mr. TURNER) for the balance of the time allocated to the minority on the Committee on Energy and Commerce.

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, could I inquire as to how much time remains that I am controlling?

The SPEAKER pro tempore. The gentleman from Texas (Mr. BARTON) has 20 minutes, and the gentleman from Texas (Mr. TURNER), for the minority, has 37 minutes.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. ROGERS), a member of the committee.

Mr. ROGERS of Michigan. Mr. Speaker, I thank the gentleman for yielding me this time; and I want to also thank Members on both sides of the aisle on this very, very important issue.

This legislation will greatly strengthen our Nation's capability to protect our military, first responders, and U.S. citizens from the real threat of biological, chemical, radiological, and nuclear weapons of mass destruction.

I am very pleased that this expands the definition of eligible countermeasures and would permit funding and procurement for certain FDA-licensed vaccines as well as experimental products for inclusion in the Strategic National Stockpile. I cannot say how important that is.

We find heroes and patriots both abroad and at home risking their lives in defense of freedom in this war on terror, but there are patriots and unsung heroes in my community who, under withering criticism, toiled to make their product better and get it into the hands of those who needed it most. Thanks to the employees of Bioport in Lansing, Michigan, since 1998, more than 1.1 million military and civilian personnel have been safely vaccinated with more than 4 million doses of the vaccine, including both pre- and post-exposure vaccinations of many of our own congressional colleagues and staff members after the October, 2001, anthrax attacks.

These existing products, like BioThrax vaccine, will provide our Nation with the insurance policy to strengthen its immediate bioterrorism preparedness capability in conjunction with working on new experimental vaccines.

Mr. Speaker, I would even go further and urge the Departments of Homeland Security and Health and Human Services to consider the immediate procurement of millions of additional doses of the FDA-licensed anthrax vaccines, as well as additional doses of antibiotics for the Strategic National Stockpile. These doses are essential to improving our capability and responding to another potential anthrax attack.

I want to again thank the President of the United States for making this a priority and sending a very clear and strong message that our Nation is serious about protecting the citizens and first responders from deadly terrorist threats with proven countermeasures.

The SPEAKER pro tempore. The Chair will clarify the time allotments.

The gentleman from Texas (Mr. BARTON) has 18 minutes remaining, and the gentleman from Texas (Mr. TURNER) has 37 minutes. We also have a 15-minute allocation to the majority, 7½ minutes to the gentlewoman from Washington (Ms. DUNN) on the Select Committee on Homeland Security, and 7½ minutes to the gentleman from Virginia (Mr. TOM DAVIS), chairman of the Committee on Government Reform.

Mr. TURNER of Texas. Mr. Speaker, I yield myself such time as I may consume.

I think we all understand that to win the war on terror we have to be much more aggressive about going after the terrorists wherever they are. Breaking up international terrorist cells is project number one for the national defense of this country.

We also know that we have to strengthen our homeland defenses and protect our vulnerabilities and protect our population from threats posed by challenges as the one addressed in this bill today, bioterrorism.

Finally, I hope we will soon learn that in order to win the war on terror we have to start addressing the policies that we need to pursue to prevent the rise of future terrorists so that someday we can stand on this floor and announce, as we did at the end of the Cold War, that we have won, that we have prevailed.

□ 1745

To win this war on terror, we must address the threat that is addressed by Project Bioshield, the threat of mass destruction through the use of bioweapons. Perhaps the most devastating weapon is a bioweapon of mass destruction. The anthrax attacks of 2001 woke this Nation up to the very real threat of bioterrorism. We know that al Qaeda intends to engage in bioterrorism, and we know that Osama bin Laden has called for the use of weapons of mass destruction against the American public. In fact, he has called it a religious duty.

In spite of this dire and clear warning, our biodefenses are no better than they were in September of 2001. No new medical treatments, vaccines, or life-saving drugs have been approved for use. There is no antitoxin for ricin poisoning, no vaccine to protect against the plague, and no treatments of any kind against the deadly ebola virus.

Mr. Speaker, we must regain the sense of urgency that we all felt in this Chamber in the aftermath of September 11, and I hope that the passage of this bill will mark a renewed sense of urgency regarding the bioterror threat. Because this bill marks but the beginning, not the end, of a long road we must travel, I hope that the passage of this legislation will renew our urgency about the threat of bioterrorism. I support the Bioshield legislation because it is a good first step to addressing the challenge.

From the beginning of this process, I and many of my colleagues on the Democratic side have been concerned that this legislation is not enough to address the threats that we face. Whether Bioshield will be a success is yet to be determined. Bioshield is, in fact, an experiment. We do not know if the incentives in this bill will drive our pharmaceutical industry to develop medicines for biodefense when we all know they can make much more money developing and putting on the market other types of products. Many experts in the field believe that the best we can hope for is that in 10 years we may have a few new countermeasures that will plug some of the holes in our biodefenses.

The longer it takes for companies to step forward to fill these gaps, the longer we will remain vulnerable. Our terrorist enemies will not wait while we experiment and our national security is at stake. We must protect our population. That is our responsibility. If the private sector does not step up to address and accept the challenge presented in this bill, then our government needs to have the authority to do the job itself directly.

One example of a capability that we clearly need and that Project Bioshield does not address is the ability to respond rapidly to a previously unknown or engineered pathogen. Terrorists may soon be able to genetically manipulate biological agents so they are resistant to our current stockpile of countermeasures and perhaps to those we develop in the future. That is why I, along with 35 of my Democratic colleagues, introduced H.R. 4258, the Rapid Cures Act. This legislation recognizes the fact that the growing power of biotechnology can render a pathogen like anthrax or smallpox immune to the vaccines and drugs we may develop through Project Bioshield. We need to develop the mechanism to go from bug to drug, that is from the identification of a pathogen to the development of a countermeasure to combat it in a matter of a few months or even weeks.

Today the average development period for a vaccine is 8 years. That is too long to address the threat that our terrorist enemies of the future may present us. Personally, I cannot think of another research goal that would bring more benefits to the security and the health of this Nation than shortening the period of drug and vaccine development. It is that kind of capability that we need legislation to bring about today.

Finally, it is incumbent on this Congress to exercise vigorous oversight in the implementation of this law and to ensure that the investment in resources which could be as much as $6 billion over 10 years produces the results that we intend. We have had biodefense failures before. The national smallpox vaccine program which was announced by the President with much fanfare at the end of 2002 has fallen far short of its goal of vaccinating 500,000 health care workers with, in fact, less than 10 percent of that number actually vaccinated today.

Forty percent of our States report that they are unable to vaccinate their populations within 10 days, that critical period, 10 days of an outbreak of smallpox. As soon as next month, we are likely to hear of the award of the first-ever Bioshield contract for 75 million doses of new anthrax vaccine. We need to be asking now before the ink dries on this multimillion-dollar contract, what is the plan? How does this vaccine fit into our biodefenses? Given the failure of our smallpox vaccine program, do we really expect our citizens to be any more receptive to the anthrax vaccine than they were to the smallpox vaccine? And if the old anthrax vaccine, as some have told us, is now safe and effective for our troops, why in fact do we need a new one?

And if as is the case and we already have a vaccine but we lack good treatments for an anthrax infection, perhaps we need to be investing in the treatment for those who may contract anthrax and need a drug to cure that dread condition. And if anthrax is not a contagious disease and we know it is not and if this vaccine will only work after three injections over 3 weeks, as I understand the proposed new anthrax vaccine requires, how will that protect us in the event of an actual anthrax attack?

So before the Secretary of Homeland Security and the Secretary of Health and Human Services decide to spend a billion dollars on a new vaccine, we in this Congress have a responsibility to get the answers to those questions.

For this Nation, Project Bioshield is an important first step, but much more work remains to be done, and we must take even stronger steps as soon as possible to protect us and to secure us in the days ahead.

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

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. SHADEGG), the distinguished whip of the Committee on Energy and Commerce.

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

time. I rise in strong support of the Project Bioshield Act. Is the act perfect? Does it solve all problems in this area? No. But I do not think we will hear anyone take to the floor and say that this is not a bicameral, bipartisan proposal to address a serious threat to this Nation.

I want to thank the chairman of the Committee on Energy and Commerce and the previous chairman, the gentleman from Louisiana (Mr. TAUZIN), both of whom have worked very hard on this legislation, as well as the chairman of the Select Committee on Homeland Security in bringing this initiative forward and moving it as rapidly as possible through the United States Congress. I also want to thank President Bush for putting this initiative on our agenda.

Thirty years ago, perhaps 20 years ago, we had never even heard of biotechnology or genomics; but today, along with our country's unparalleled leadership in semiconductors and computing power, we are making breathtaking breakthroughs in the field of bioscience. And as my colleague from Texas just outlined, there is much more that can be done. This legislation goes at a serious vulnerability for our Nation.

As has been referred to in this debate, we are aware by the briefings we get and by the press we read that we face a threat from al Qaeda and others who would seek to use these agents against us, chemical, biological, radiological, and even nuclear, weapons. They would like to use dangerous agents like anthrax, botulinum toxin, the plague, ebola and other similar viruses, as have just been noted, even some we are not even aware of. And of course as was well explained by my colleague, the former chairman of the Committee on Energy and Commerce, the gentleman from Louisiana, in the absence of this legislation, it is very clear that there is no incentive for anyone, not the government, not the private sector, not anyone, to develop and do the research to develop the countermeasures we need for these serious threats to the American people.

This is critically important first-step legislation. It not only will encourage the research but it also encourages the development of those countermeasures and the stockpiling of them so that they are readily available. The American people expect that of us and both committees in both bodies have worked hard on this kind of legislation.

I want to point out that I chair the Subcommittee on Emergency Preparedness and Response of the Select Committee on Homeland Security as well as serving on the Committee on Energy and Commerce; and I chaired hearings on the House parallel to this legislation, H.R. 2122. In those hearings we discovered a fact that has not been mentioned in this debate, and that is that the mere development of these countermeasures for such a biological attack will deter the attack. Think of that point. The reality is if al Qaeda knows that we are unprepared for a chemical, a biological or a radiological attack, then they are incentivized to make that kind of attack. On the other hand if they know that we have invested the money and done the research and we have developed countermeasures so that a biological attack or an anthrax attack, an attack of ebola or of the plague is something we are prepared for, then they are discouraged to even make that kind of attack.

The American people expect us to do everything humanly possible to prepare for the event of an attack; but even more importantly they want us to deter any attacks. They want us to protect the American people from an attack. This legislation, Project Bioshield, by not only encouraging the research of these antitoxins but also encouraging their development and their stockpiling will indeed deter such attacks.

I strongly urge my colleagues to support this legislation.

Mr. TURNER of Texas. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New Jersey (Mr. ANDREWS), who has spent a great deal of time and energy working on this important issue.

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

Mr. ANDREWS. Mr. Speaker, I thank my friend from Texas for his leadership and hard work on this bill. I congratulate him, the gentleman from Ohio (Mr. BROWN), the gentleman from Michigan (Mr. DINGELL), the gentlewoman from New York (Mrs. MALONEY), the gentleman from Texas (Mr. BARTON), the gentleman from Louisiana (Mr. TAUZIN), the gentleman from California (Mr. COX), and all those responsible for the passage of this very important bill.

One of the most frustrating failures of local government is when there is a traffic fatality at an intersection and the residents of the community say, for years we have been warning that there was going to be a fatality at this intersection. How come you did not put a traffic light or a stop sign up before? Why did it take a fatality to get government to pay attention?

This is a massive and serious equivalent at the national level of whether we should prevent the traffic accident by putting up the signal ahead of time. Although this bill is not perfect, it recognizes an issue that is not much talked about today but is very much looming on the horizon as a potential catastrophe for the country. As the gentleman from Texas said very eloquently just a few minutes ago, perhaps the most ominous and destructive terrorist attack that could occur on this country would be a terrorist attack using a biological weapon. Unlike chemical weapons, unlike radiological weapons, even unlike nuclear weapons, the threat of a bioweapon is not localized because very often a bioweapon uses as its carrier a human being. So the spread of a bioweapon attack will not be limited to a discrete local area. It will likely be spread throughout the country and throughout the world. This makes it even more urgent that antidotes that could cure those exposed to the attack or prevent people from being sickened or killed by the attack, that these antidotes be developed as rapidly as possible.

I am particularly pleased that the committees involved worked with us to include in this bill language that will protect the interests of companies that begin the process of developing an antidote and then have their contract terminated for convenience because a better idea comes along from another vendor. It is a very important provision that will permit these investors in research to recover the funds that they put into the contract.

Let me express three concerns about the bill, and I hope that we return once this is made law to improve these areas. One is what the gentleman from Texas talks about, particularly with respect to mutant or new strains of bioweapons that would not be handled by the antidotes developed under this bill. We need a much more rapid and focused effort to deal with those mutant or new strains.

Second, I am very concerned that the liability provisions in this bill are not sufficiently protective of the companies that would step forward to address the need to create these Bioshield defenses. I am not at all convinced that the immunity is broad enough or dependable enough. Time will tell.

□ 1800

If the immunity is not broad or dependable enough, we are going to have to revisit that issue.

Finally, I am concerned, to the extent that funding under this bill is discretionary and not mandatory, the financial rewards that are necessary to induce a company to step forward and participate in this process may not be certain enough. An investor is not going to take a risk unless there is a guaranteed return. I think this bill takes a step in the right direction, but I am concerned it does not go far enough.

I wholeheartedly support this bill. I am honored to have been a part of writing and pursuing the bill. I hope that the products produced as a result of this bill are never used. That would be the real measure of success. But, God forbid, if the day comes when they need to be used, let us be prepared. Let us not look upon ourselves and say, why did we not take action in the peaceful days before the attack when we had a chance to do so?

This legislation is long overdue. I enthusiastically support it. I would ask colleagues on both the Republican and Democratic side to vote ''yes.''

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Florida (Ms. GINNY BROWN-WAITE), a former president pro

tempore with the Florida Senate who chaired the Homeland Security Select Committee in the Florida Senate.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today in support of this legislation and certainly to congratulate both the former and current chairmen of the Committee on Energy and Commerce for their perseverance in bringing this bill to fruition today.

Since the attacks of 9–11, America has been under siege. We are fighting a war against terror and must not waver in our commitment to combating this evil. This war knows no set battleground, and the terrorists' arsenal of weapons is limitless. From using a cell phone as a bomb detonator to contemplating a crop-duster, as we found in Florida, as a vessel of pestilence, these thugs have proven both their resourcefulness and also their boldness and audacity.

For this reason, America must be prepared and must do everything in its power to protect its citizens. This legislation does exactly that. Among other things, the bill gives the Secretary of HHS the authority to conduct research and development for new vaccines that will offer protection from the possible chemical and biological agents that these arrogant fanatics conspire to exploit. Congress will provide the advance appropriation of $5.6 billion over the next 10 years to purchase these vital countermeasures.

S. 15 adds to America's security and offers us the piece of mind in knowing that if terror strikes America will be ready and we will be a whole lot safer. The tragedies of 9–11 taught us that we must do much more to protect our Nation and that the unrest around the world can have a disastrous impact on us here at home. Terrorism knows no boundaries, and neither should our efforts to prevent it.

This is a well-thought-out bill, and I encourage my colleagues on both sides of the aisle to support this proposal this evening.

Mr. TURNER of Texas. Mr. Speaker, I yield 6 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE), who has worked very hard in the area of trying to improve our bioterror defenses.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank my friend and colleague from Texas for yielding me this time. I listened to him as he was outlining some of the positives and, of course, some of the challenges that we still have before us. We cannot thank him enough for the studious and deliberate approach that he has taken to protecting the homeland.

It is important to note as well, since there are two Texans on the floor, now three, that this is a bipartisan bill; and we thank the distinguished chairman and the number of other Members who have worked so hard on this legislation. So my remarks should not be taken out of context to the extent that I disregard the hard work and the very valuable aspects of this legislation.

Frankly, I think, in order to make it more understandable, it is simply the government doing what it should do. It is the big umbrella. It is the responsibility of this government to secure the homeland. And when the private sector has not yet reached the point when it can move with all due and deliberate speed and even faster, it is imperative that we, the government, move in to protect the American people.

But there lies, I believe, the core of my criticism or my critique, because I am concerned that the American people do not believe that they are more safe today than they were 4 years ago or more safe today in light of the horrific tragedy of 9–11. I think we should be very frank about questions being asked that if there was a tragedy, whether it would be by some form of nuclear reaction or activity or whether it would be bioterrorism or whether it be acts of terrorists, the question is who is in charge? All of these elements that we are now discussing, in this instance, bioterrorism, all need to relate to an orderly focus on securing the homeland; and I believe it is extremely important that we find ourselves organizing this whole effort of the war against terrorism in a methodical way.

We are very delighted that a number of us Democrats are putting forward a number of initiatives that deal step by step with securing the homeland in an orderly fashion. I believe the bioterrorism in the Project Bioshield Act of 2004 is a positive first step. It is important to note that even as recently as April we were faced with challenges dealing with the question of bioterrorism.

I am reminded of a couple of days after 9–11 when I gathered a number of our first responders from all over the county in a meeting held by my congressional district. In the midst of that meeting, just 3 days after 9–11, a number of my firefighters had to immediately leave in an emergency as some white powder was discovered at a major hospital in my community. We have not had a series of these lately, but they are occurring on a rapid basis or regularly, even though we do not see them in the news.

As recently as April 22 of this year in Tacoma, Washington, we had a bioterrorism scare. A white powder was found in two envelopes, and 94 people had been evacuated from a mail distribution facility. Initial tests of the powder tested positive for biotoxins that cause bubonic plague or botulism. Four people at the facility had to be decontaminated.

The same day, a suspicious powder was found in a Federal Express cargo area at Southwest Florida International Airport in Fort Myers, Florida. Six people were taken to a hospital for possible decontamination, including one who suffered burning eyes and nose.

We are presently faced with the threat of a worldwide SARS outbreak. The inability of many foreign countries to adequately deal with that outbreak raises questions about our own preparedness.

What about other infectious diseases like tuberculosis? There are many ailments that our medical professionals are struggling to control, and we must do better in the area of biological weapons.

Might I say also that we are confronting and fighting the devastation of HIV/AIDS. We have found in this country that sometimes the infected person has used it in a criminal manner. Who is to say that it could not also be engaged in some act of bioterrorism?

So I do support the Project Bioshield Act of 2004. But, frankly, I believe that one of the things that we should get out of these legislative initiatives is to find an orderly way of putting all of these ways of protecting the homeland in a way that we know who is in charge, why they are in charge, and how they can intermesh with protecting the homeland. I will raise that question over and over again.

Might I also acknowledge that, as we put forward Project Bioshield that will take now some $5.6 billion, we should not forget, as our friends and colleagues on the Committee on Energy and Commerce have noted, the other preventable diseases or other contagious diseases and the other work of NIH so that we are assured that we are protecting the homeland in many ways. We must seek to balance the fear of the American people with the health needs of the American people. Again, we must have an orderly process of protection.

Let me make note of an amendment that I offered and added to this, because I am always concerned that protecting the homeland reaches the neighborhoods, reaches the families, the schools. In fact, I am a supporter of finding safe places in communities such as public buildings like schools and fire stations. But, Mr. Speaker, we added to this legislation that the Secretary of Health and Human Services reach out to Historically Black Colleges and Universities, those serving Black or African Americans, American Indians, Appalachian Americans, Alaska Natives, Asians, Native Hawaiians, other Pacific Islanders, Hispanics or Latinos, in order to reach out to provide resources for those institutions to be utilized in available research and development grants, contracts, cooperative agreements, and procurements under this particular legislation. If we secure the homeland, we must secure the rural homeland, the urban homeland, and all segments of our population. We must secure the neighborhoods.

So I support this legislation, but I also believe that we still have work undone to complete our task of assuring the American people that the homeland is securely secure.

Mr. Speaker, I rise today in support of S. 15, the ''Project Bioshield Act of 2004.'' I supported the predecessor of this bill, H.R. 2122 as it passed previously. This is important legislation because it takes America one-step closer to being prepared to deal with a biochemical terrorist attack. As we consider this legislation, Mr. Speaker, America is still not safe. We remain vulnerable. Our ports are not secure. Our critical infrastructure is not secure. our communities are not protected from biochemical agents. S. 15, will help to make America safer.

The purpose of the Project BioShield Act of 2004 is to ''enhance the research, development, procurement, and use of biomedical countermeasures to respond to public health threats affecting national security, and for other purposes.'' The stated purpose of H.R. 2122 and now of S. 15 are noble given the danger posed by biochemical weapons.

The threat of bioterrorism is substantial, and protecting America from biochemical agents and terrorist attacks must be one of our chief concerns as we continue our work of protecting our homelands. Biological weapons pose a particularly dangerous threat. Biological weapons are highly portable and difficult to detect.

Bioterrorism attacks not only pose a danger to human lives, they also have the ability to cripple the operation of our society and severely harm our economy. We all recall the primary and secondary impact of the anthrax attacks in 2001. The attacks involved a series of letters mailed in prestamped envelopes to media outlets in Florida and New York and to the offices of Senators THOMAS DASCHLE and PATRICK J. LEAHY (D–Vt.). The anthrax attacks killed 5 Americans and left 13 others severely ill. The five people who died from inhalation anthrax included two postal workers at the Brentwood postal facility in Washington, a Florida photojournalist, a New York hospital worker, and a 94-year-old woman in Connecticut. Thousands more were exposed to the lethal bacteria. The letters passed through various post offices and postal distribution centers along the east coast leaving a trail of contamination. Buildings from the Brentwood mail facility, to the congressional office buildings, to NBC headquarters had to cease operations.

The threat of bioterrorism did not end in September 2001. As recently as April 22 of this year in Tacoma, WA, we had a bioterrorism scare. A white powder was found in two envelopes, and 94 people had to be evacuated from a mail distribution facility. Initial tests of the powder tested positive for biotoxins that cause bubonic plague or botulism. Four people at the facility had to be decontaminated. The same day, a suspicious powder was found in a Federal Express cargo area at Southwest Florida International Airport, in Fort Myers, FL. Six people were taken to a hospital for possible decontamination, including one who suffered burning eyes and nose.

We are presently faced with the threat of a worldwide SARS outbreak. The inability of many foreign countries to adequately deal with that outbreak raises questions about our own preparedness. What about other infectious disease like tuberculosis? There are many ailments that our medical professionals are struggling to control. We must do better in the area of biological weapons.

The ease with which biological weapons can be manufactured is also a danger. The equipment and ingredients needed to manufacture many biological agents can be purchased over the Internet. Additionally, as our failure to apprehend those responsible for the 2001 anthrax attacks illustrates, biological terrorists can operate with more secrecy than traditional terrorists.

Positive strides have been made in the various biochemical fields. We have improved our ability to secure our borders and prevent deadly materials from entering our country. However, it is unrealistic to expect no biological weapons to enter the United States. Last year alone 30 million tons of cocaine was smuggled into the United States. If we can't stop 30 million tons of cocaine from crossing our borders, how can we expect to stop a vile filled with anthrax, botulism, or small pox? A vile that could kill hundreds or possibly thousands.

To adequately protect our homeland from bioterrorist attacks we must address these and many other concerns in the Project Bioshield bill. The provisions of Project Bioshield provide a good start to protecting Americans from a bioterrorist attack but work remains. Presently Project Bioshield's provisions grant the National Institute of Health new powers, through grants and contract awards, to speed effective research and development efforts on bioterrorism countermeasures. Project Bioshield also creates a long-term funding mechanism for the development of medical counter measures, and empowers the government to purchase safe and effective vaccines. Finally, Project Bioshield authorizes the Food and Drug Administration to use promising, yet uncertified, biological treatments in the case of emergencies.

The research, development, and procurement provisions of the Project Bioshield bill are instrumental to the development of countermeasures for protecting our communities. The development of effective vaccines will mean the difference between life and death. There needs to be research and development participation from diverse institutions nationwide, so that the expertise of as many biological and chemical industry leaders can be utilized. During markup of the House version of this legislation, H.R. 2212 in the Select Committee on Homeland Security, I negotiated the inclusion of language to ensure that Historically Black Colleges and Universities, and institutions serving large populations of Native Americans, Hispanic Americans, and Asian Pacific Americans are meaningfully aware of research and development grants. Provisions such as this not only include diverse scientists in the research and development process, they facilitate dispersal of information to all communities. I am very pleased to see the retention of this provision as ''Section 6, Outreach'' in the bill before us today, and I wholeheartedly support its passage.

Protecting our communities is the most challenging and most important responsibility of the Federal Department of Homeland Security, the House and Senate Select Committees on Homeland Security, and all members of this Congress. An ongoing failure of all agencies responsible for homeland security is our inability to equip our local communities with the funds and supplies needed to counter a terrorist attack now. During recent on-site reviews in Colorado and California, I spoke with first responders and individuals responsible for securing our ports. I also organized a briefing with testimony on the issue of homeland security in Houston, TX, in April. During each of these events, America's first responders echoed the same sentiment: They lack the funding and equipment to deal with a terrorist attack.

The Project Bioshield bill is an opportunity to correct this continuing failure. It is insufficient to simply research and develop bioterrorism countermeasures. We must also get those countermeasures into the hands of the health professionals and other first responders responsible for administering vaccines to the victims of bioterror attacks. We must not delay. First responders need these supplies immediately.

Mr. Speaker, I believe the provisions of S. 15, the Project Bioshield bill, are good first steps in protecting Americans from biological attacks. However, I feel that our country is still not safe and that many protections need to be established to fully protect our communities from biochemical attacks.

**SEC. 6. OUTREACH.**

The Secretary of Health and Human Services shall develop outreach measures to ensure to the extent practicable that diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Black or African Americans, American Indians, Appalachian Americans, Alaska Natives, Asians, Native Hawaiians, other Pacific Islanders, Hispanics or Latinos, or other underrepresented populations, are meaningfully aware of available research and development grants, contracts, cooperative agreements, and procurements conducted under section 2 and 3 of this Act.

Mr. BARTON of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. COX), the distinguished chairman of the Select Committee on Homeland Security.

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

This has been an extraordinary collaborative effort. I want to congratulate the gentleman from Texas (Mr. TURNER), my ranking member, who is on the floor and who has been on his feet for much of this debate. I want to thank the gentleman from Texas (Mr. BARTON), the chairman of the Committee on Energy and Commerce; and the gentleman from Michigan (Mr. DINGELL), ranking Democrat on that committee.

In the same way that this was a collaboration between the Committee on Energy and Commerce and the Select Committee on Homeland Security in the Congress and the Committee on Government Reform in the House of Representatives, chaired by the gentleman from Virginia (Mr. TOM DAVIS), who will speak shortly; likewise, it was a collaborative effort in the Senate, including their Government Affairs Committee. It is a collaborative effort within the administration that we are setting up. The Department of Homeland Security and the Department of Health and Human Services will partner in this first responder effort of unprecedented magnitude.

And I should say, Mr. Speaker, that this is the largest first responder program ever enacted in American history. The purpose, of course, is to protect Americans, to protect Americans

in the event of an attack. That puts this squarely in the orbit of what we consider to be first response. But we need to make sure that our first responders have the tools that they need to arrest the spread of a biological attack and to protect Americans before it is too late. Every second, every moment really does count in the event of a terror attack, as the Senate Majority Leader Dr. FRIST has so ably pointed out in his book on this topic.

It was 18 months ago that President Bush called on Congress to enact a bill to speed the development of antidotes, vaccines, against biological warfare and against chemical weapons. We need to have drugs, vaccines, and antidotes to combat these weapons if they are used against us, as we now expect they might be.

We know, for example, that Mr. Zarqawi, when he was in Afghanistan, was working on biological and chemical weapons development. He is now attacking Americans and leading the terrorist attacks on Americans in Iraq. We know that Osama bin Laden at various times expressed interest in and may have acquired precursors of these same kinds of weapons.

We cannot take these kinds of threats lightly, and we are not. The bill that we are passing today reflects a model for future legislation because it is so collaborative. Homeland security requires us to knit together different responsibilities, different authorities, the responsibilities of different agencies of government, of law enforcement, different levels of government, Federal, State, and local, as never before.

□ 1815

That is going to happen under this bill as well.

In the first instance, it will be the responsibility of the Department of Homeland Security to assess the global threat, to tell us what are the most likely and most threatening agents that could be used against us. Then we will hand off to the Department of Health and Human Services, which will help, after the priorities are set for this research jointly with DHS, implement this program. The research priorities will be implemented based on the information that has been provided by the Department of Homeland Security.

By properly understanding the threats that confront us based on our country's best intelligence, we can allocate our resources and focus our efforts where they are most needed, on the biological, chemical and radiological agents for which the risks and potential consequences of attacks are greatest.

Another genius of this program is that it is not a government-run program. The government is putting significant resources at the ready to provide an incentive and a market to purchase any successful products that are developed as a result of our call to action, but we are unleashing the creative genius of the private sector.

Under the President's new national biodefense directive issued on April 28, 2004, all bioterrorism projects and programs will fall under a coordinated and focused strategic plan. This will help maximize these resources that we are putting to work here, and it will ensure a unified effort across all the Federal agencies.

Bioshield is an integral part of this strategic plan. It will draw upon the expertise and resources of the private sector, as almost no other government program that is part of the strategic plan, in order to produce more quickly those countermeasures necessary to make our Nation safer.

It is important to recognize the visionary leadership of the President in this regard. It is without exaggeration or embellishment that I can say that this President, President Bush, and his administration, and in particular Vice President CHENEY, have devoted more attention and more resources to the fight against bioterror than any administration in history.

Prior to 2001, our investments in research and development and other public health preparedness activities were minimal. They are now profound. The President and this Congress are allocating annually billions of dollars to this fight, and under Project Bioshield alone we will spend $5.6 billion over the next 10 years. The President is clearly leading the way.

Project Bioshield was not dreamed up here in the halls of Congress, but with big obstacles to addressing that need we have acted. So it is with both bipartisan pride, I think, and also with collaboration in mind between the executive branch and the legislative branch that we can say that we have enacted into law, we very shortly will be able to do this, next week we will be able to say this, the most significant first responder program in our Nation's history.

The Select Committee looks forward to working with President Bush, Secretary Ridge, Secretary Thompson, and the other committees in the House and Senate to make sure we leverage the resources provided by Project Bioshield to build a sustained countermeasure capacity to protect our Nation and our citizens from the ever-evolving threat of weapons of mass destruction.

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

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

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the great volunteer, the gentleman from Tennessee (Mr. WAMP).

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

Mr. WAMP. Mr. Speaker, I thank the chairman for yielding me time, and I thank all of those involved for bringing this legislation to the floor in the form of a conference report.

I have to come to the floor, though, saying it is frustrating for me as a Member of the Subcommittee on Homeland Security of the Committee on Appropriations that it took a year to get the bill from the House floor back to the House floor in the form of a conference agreement, since time is very much of the essence.

Also I want to tell a story. About a year ago, when I brought ''Buy America'' provisions to the floor trying to insert them in this legislation, received assurances from Secretary Thompson and the gentleman from Louisiana (Chairman TAUZIN) that every effort would be made to buy America where possible in all of the implementation of not just Bioshield, but all of the different treatments and antidotes that fall under Bioshield or not. Then later in the fall I had an Assistant Secretary of Health and Human Services in my office, and I spoke about the treatment for a radiation event and how that was going to be procured. It is called Prussian Blue, and I was told that that was still in the process of being competed.

Little did anyone know in the room under this interagency working group that a month earlier, an exclusive contract had already been committed to procure Prussian Blue and fill up our stockpiles to a German company.

I have got to tell you, in Tennessee that does not go over very well, when there are U.S. manufacturers prepared to do this and time is of the essence. The FDA, HHS, DHS, we need to coordinate better. I am very concerned about ceding the responsibility to interagency working groups and not having an accountable person.

This is billions of dollars. It is, frankly, late. We have been appropriating the money. It cannot go forward, and time is of the essence. We are going to the conventions, and the threats are real, and we do not have the stockpiles full.

I commend the authorizers; but, darn, everybody involved needs to move quicker because we do not have the stockpiles full of these treatments, and many of them are available and on the shelf by U.S. manufacturers. I was in Tampa, Florida, a week ago Monday; and I saw those treatments, and they are not on the streets of New York or Boston or across the country, or in Athens, Greece; and U.S. manufacturers can export them.

We have the best technology in the world. We do not have to lean on the French or the Germans to fill up our stockpiles for treatments in the event of more terrorism. It is not just Bioshield, it is Chemshield and Nukeshield. It is all of the major threats.

So, yes, vote for this. It is long overdue. Move it quickly to the President's desk. And then get the administration to coordinate better together.

I called Assistant Secretary Simonson today. I said, I need to talk to you. I am still waiting for the phone call. The legislation is on the floor. I am on the subcommittee. I am waiting

for the phone to ring. We need action. The American people demand no less. This is the most target-rich environment in the next 4 months that we have ever faced in the history of this country. Let us get it on.

Mr. BARTON of Texas. Mr. Speaker, I believe I have 4 minutes remaining. I yield that time to the gentleman from Virginia (Mr. TOM DAVIS), the chairman of the Committee on Government Reform, and ask that he control the balance of the Committee on Energy and Commerce time.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Virginia (Mr. TOM DAVIS) has 11½ minutes remaining, the gentlewoman from Washington (Ms. DUNN) has 7½ minutes remaining, and the gentleman from Texas (Mr. TURNER) has 17 minutes remaining.

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

Mr. Speaker, I rise in support of S. 15, the Project Bioshield Act of 2004. The bill provides the government with the necessary tools to develop and purchase vaccines and other drugs to protect Americans in the event of a bioterrorist attack. The President first announced this proposal during his 2003 State of the Union address, and it serves as the cornerstone of the administration's strategy to prepare our Nation against the possibility of bioterrorism.

A few minutes ago, we were privileged to hear from the chairman of the Select Committee on Homeland Security, the gentleman from California (Mr. COX); and I will include for the RECORD an editorial written by the gentleman from California that appeared in the Washington Times and published July 12, 2004.

[From the Washington Times, July 12, 2004]

INTERCEPTING BIOTERRORISM

(By Christopher Cox)

America is at a very dangerous crossroads. Not only al Qaeda but also terrorist groups such as Jemaah Islamiah are working on acquiring or developing new terrorism capabilities, including bioweapons. Will we be prepared?

Evidence in an Egyptian terrorism trial two years ago indicated Osama bin Laden may already have access to dangerous biological agents. Meanwhile, the risk of proliferation to terrorists continues growing, with at least eight nations running bioweapons programs, including genetic engineering of pathogens and developmental programs for new production and delivery methods.

Winning the war on terrorism will require our nation not only to defeat attacks with explosives and military-style weapons, but also to be prepared to overcome potential assaults with weaponized anthrax, ricin, smallpox, plague, tularemia, botulism toxin and viral hemmorhagic fevers (such as the Ebola virus).

Just how vulnerable are we to such attacks today? The United States now can fully meet only a handful of the 57 ''top echelon'' bioterror threats. That's not an acceptable level of preparedness for the greatest power on Earth. We can launch a Tomahawk cruise missile and thread it down the smokestack of a munitions factory from 1,000 miles away—once thought to be a million-to-one shot at best—yet we aren't prepared to deal with the frightening prospect of an anthrax or sarin gas attack against our civilian population.

It's vital that we put our best minds to work round-the-clock on new ways to prepare for a biological or chemical attack here at home. But according to a study published in the May 2004 issue of the journal Clinical Infectious Diseases, only six of 506 drugs currently in development are antibioltics—even though drug-resistant bacteria are a growing threat.

This is only because the proper incentives and funding aren't there, not because the scientific challenge is too great. Indeed, the germs that cause anthrax and plague are not nearly as difficult to analyze as a virus such as HIV. Vaccines and treatments for biological weapons such as these can be developed.

Certainly, America has made some progress in preparing for possible germ warfare on our own soil, but we're not ready to combat a major bioterror assault at this time and our enemies know it. Worse, they're looking for ways to exploit our weaknesses.

We are now on the threshold of changing that. Project Bioshield, expected to receive final legislative approval tomorrow and then be sent to the president for his signature, will shortly unleash the greatest force in world history: American ingenuity.

By guaranteeing a market for successful vaccines and antidotes, Project BioShield will provide incentives for private-sector scientists, physicians, and researchers to develop lifesaving treatments. Congress has made available $5.6 billion over 10 years to purchase and stockpile a national supply of drugs and vaccines for use if a biological weapon is set loose by terrorists on an unsuspecting American public.

BioShield will speed research and development on new drugs and antidotes at the National Institutes of Health and in our national laboratories. And it will allow, if germ warfare breaks out, distribution of developmental lifesaving drugs on a fast-track approval basis to save innocent lives, so long as the benefits outweigh potential risks.

President Bush asked Congress to move immediately on his plans for Project BioShields in the 2003 State of the Union address. The House quickly responded. Last July, the Homeland Security Committee, which I chair, worked closely with other House committees to turn the president's vision into legislation. Unfortunately, after our bipartisan bill passed the House by a wide margin, it languished in the Senate nearly a year before being rescued by Majority Leader Bill Frist, Tennessee Republican.

But now that both chambers have worked out their differences, America finally is ready to prepare in earnest for a potential terrorist attack that won't yield to bullets or bombs. Now, we'll be using the very best weapon in our defensive arsenal—our brainpower.

By approving Project BioShield, Congress is saying: ''Let the race to find lifesaving countermeasures begin.'' America's leaders have heeded the advice of experts who have estimated that without BioShield it could take 10 years, and cost up to $800 million or more, to bring a single new vaccine from development through clinical trials to market.

The war won't wait that long, of course: Terrorists could strike us at any minute. And once a bioweapon is released, every second will count.

In many ways, the war on terrorism is like a chess game. We must anticipate our enemy's moves, and mount an impenetrable defense. In their pursuit of bioweapons, the terrorists have revealed some of their game plan. Project BioShield will ensure we stay one move ahead of them.

Someday soon, when it comes to bioterrorism, Americans will be able to say: Checkmate.

Mr. Speaker, the bipartisan bill we are considering today is similar to H.R. 2122, which was passed by the House on July 16, 2003. S. 15 is a good bill that serves a compelling national interest.

Over the past few decades, we have seen rapid progress in the development of treatments for many serious, naturally occurring diseases. Pharmaceutical and biotech companies are highly capable of producing diagnostics and therapeutics when consumer demand exists. However, there has been little progress in treatments for deadly diseases like smallpox, anthrax, ebola, and plague that affect today few Americans. There is little manufacturer interest in developing treatments for these diseases since there is no significant market, other than the government.

Drug companies have little incentive for the substantial investment required to bring treatments to these deadly diseases to market. Moreover, the potential liability for an adverse reaction by a patient far outweighs any potential financial benefit in some of these cases.

Should the United States be attacked with these deadly pathogens, however, the need for vaccines, tests and treatments would be great and immediate. S. 15 is designed to ensure that our country is prepared.

The bill provides the Secretary of Health and Human Services with a number of flexible acquisition tools based on existing streamlined procedures to promote research and development and procure necessary drugs and vaccines. These tools are instrumental to the success of the Bioshield program.

S. 15 gives the Secretary of Health and Human Services streamlined authorities to promote the research and development of drugs and other products needed to protect Americans in the event of a public health emergency affecting national security. The Secretary will be armed with flexible acquisition tools for research and development projects and would also have expedited authorities to award research grants and to hire technical experts and consultants. It would not be burdened with the existing procurement processes that could take months.

The bill authorizes the procurement of biomedical countermeasures for the Nation's stockpile, using a special reserve fund. The Secretary of Health and Human Services and the Secretary of the Department of Homeland Security would be required to work together to recommend the countermeasures that are needed for the stockpile. Acquisition of countermeasures

using the special reserve fund could only be made with the approval of the President of the United States.

This bill would permit the use of simplified acquisition procedures only when the Secretary of Health and Human Services determines that the mission of the Bioshield program would be seriously impaired without the use of such special procedures.

Finally, during national emergencies, the bill would permit the government to make available new and promising treatments prior to approval by the Food and Drug Administration.

I especially want to thank my ranking member, the gentleman from California (Mr. WAXMAN), and his staff for working with us on this important legislation. I urge my colleagues to support it.

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

Mr. TURNER of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, let me thank all of the Members on both sides who have worked to bring us to this point in the passage of the legislation. I must say I have a great deal of agreement and sympathy for the remarks made by the gentleman from Tennessee (Mr. WAMP) a few moments ago, because the urgency of this matter certainly dictates that we move much more quickly than we have been able to move on this legislation.

The President proposed this project in his State of the Union address in 2003. The House passed the bill in July of 2003, the Senate passed the bill 2 months ago, and we are just now bringing this conference report to the floor. So there is no question that in these times of terrorist threat the stakes are very high. The risks that we face are very great, and failure to close the security gaps in the area of bioterrorism or in a host of other areas where we have serious threats is not an option for this country.

We also know that in Project Bioshield and its implementation, we face great risk; and it is my hope that the three committees who worked so well together in crafting this bill will also each in their own way vigorously exercise the oversight that is necessary to ensure that Project Bioshield is successful.

When we know that we may be hearing of a decision in the near future by Secretary Ridge and Secretary Thompson to begin to acquire a new anthrax vaccine, I think it is incumbent upon each of us in our committees, in our oversight responsibilities to ask the tough questions about whether or not we are moving in the right direction; for that first contract could be in the neighborhood of a $1 billion Federal contract.

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Failure in making that decision in the appropriate and proper way to ensure that it is successful is an essential oversight responsibility that each of us have.

So it is my hope that the good work and the good cooperation that occurred between the Committee on Commerce and the Committee on Homeland Security and the Committee on Government Reform will be carried forward as we provide the necessary oversight to ensure the success of this important piece of legislation.

Again, Mr. Speaker, this is an important bill, and I urge every Member of the House to vote aye.

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

Mr. TOM DAVIS of Virginia. Mr. Speaker, I thank the gentleman from Texas and others who have been involved in getting this legislation before us.

Let me just say I share the frustration that many Members of this body feel at the time it has taken to get this measure to this floor, in a conference report form, and then send it on to the President's desk for signature. We passed this legislation with bipartisan support a year ago, and it languished over in the other body until it was rescued by Senator FRIST.

The time is late, but the time is now. I urge my colleagues to adopt and support this legislation.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY). The gentleman will refrain from improper references to the Senate.

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today in strong support of S. 15, legislation to protect our Nation from future biological and chemical terrorist attacks. The House passed H.R. 2122, similar legislation, last year by an overwhelming margin of 421 to 2. As a member of both the Homeland Security Committee and the Energy and Commerce Committee, I have been proud of the bipartisan work that has gone into this legislation which will add to our effort to protect the Nation from biochemical attack.

Mr. Speaker, although five people were killed in the anthrax attacks of 2001, the death toll was kept relatively low because effective medical countermeasures were available. After the outbreak, strong antibiotics were immediately prescribed to deal with the crisis. In 2002, Congress further enhanced our ability to respond by enacting the Public Health Security and Bioterrorism Preparedness Response Act (PL 107–188), which authorized funds to increase the Nation's stockpile of medicines and vaccines—particularly for smallpox—and provided aid to state and local governments and health facilities to help them prepare for possible attacks.

Unfortunately, effective vaccines or treatments do not exist for many biological threats deemed by the U.S. government to be most dangerous, including botulinum toxin, plague, and viral hemorrhagic fevers such as the Ebola virus.

The development of effective countermeasures has been hindered by the lack of a significant commercial market. Currently, companies have little financial incentive to invest the funds needed to research, develop or produce vaccines or other countermeasures because there is little or no market.

Despite these challenges, in my district, the Stowers Institute and the Kansas City Life Sciences Institute are both trailblazers in the field of research. The Stowers Institute's new research facility in Kansas City incorporates the best that present technology can offer. In my community, the best and the brightest are working to broaden the base of knowledge in hopes of discovering cures and vaccines for today's diseases and future threats.

Today's legislation will encourage and support these efforts by providing additional funding for research and development of new countermeasures and vaccines. The bill will also provide for an expedited approval process to ensure that the fruits of our research can protect the public as soon as possible.

Mr. Speaker, all over this Nation, our first responders serve on the front lines when disasters occur and continue to be the eyes and ears of our Nation. They are a significant part of the effort to protect our homeland and guard against the invisible threat of a chemical and biological attack. Today's legislation is an important step in that process and I support it.

Mrs. CHRISTENSEN. Mr. Speaker, I want to begin by first thanking our Chairman, Mr. COX from California and Ranking member, from Texas, Mr. TURNER, for their leadership on the select committee and for this opportunity to offer my support for S. 15, Project Bioshield, and to draw attention to the critical issues of homeland security. And I also want to take the opportunity to again thank the minority leader, the gentlewoman from California, Ms. PELOSI, for the honor of serving on this important committee.

In this post 9/11 world, it has been said that bioterrorism may represent our greatest threat. Project Bioshield is important because it will help to ensure that we can spur the development of vaccines and other countermeasures that will be needed to counteract or treat an infectious, radiological or chemical attack. But it can only go so far, because we have no idea what the agent might be or how a known one might be altered. Not only is it possible that hundreds of millions of dollars could be spent to develop a medicine or vaccine and it be totally useless, but the very best of medicines, vaccines or other agents will be worthless to you, me and the people we serve without an intact public health system.

A recent bipartisan commission's report, ''First Responders Underfunded and Unprepared,'' documents the dire need of our public health and other responders in stark and frightening terms. I am still waiting for a formal hearing on their findings, and we should not be afraid to have the report aired. We should really be more afraid not to pay attention to its findings and its recommendations.

Particular when we think about the health care disparities in minorities and in our rural areas that I have come to this floor to bring to the attention of our colleagues on many occasions did not just come about by chance. They exist because of the poor public health systems in these communities. The last 3 years of cuts to health budgets have been devastating. The lack of emphasis on minority and rural health and the even bigger cuts that the President is insisting on this year, so that those who already have the best of health care can get a tax cut and other perks, have sent States into a free fall of budget deficits, and local public health safety nets, like those in Los Angeles, and Detroit, to near collapse.

Mr. Speaker, we cannot just throw money at the problem of terrorism, as this administration has a tendency to do, without adequate planning. In this case, we must first and foremost insist that our public health system is intact and that it can ensure that people are healthy and our bodies are in a better condition to fight off infections and the other biological assaults that may come from a bioterrorism attack.

The anthrax scare taught us that lesson. The breakdowns were fundamental ones. Project Bioshield, the administration's centerpiece for public health preparedness and biological countermeasures, would not have saved the two postal workers just down the street from here who died because the public health system failed to respond. It happened here, but it could happen anywhere.

Confronting the danger posed by these advanced biological weapons is a challenge we must begin today. Thus, we must ensure that biotechnology is fundamentally ''dual-use,'' that is it can be used both for peaceful and destructive purposes. Because of its potential for misuse, balanced biodefense policies must be developed and adopted to ensure our safety and security. These should include reasonable steps to prevent the spread of dangerous pathogens and the technology to enhance them. Preparedness of our health infrastructure must also be enhanced and maintained. Finally, protections, including drugs and vaccines, to counter potential weaponized pathogens need to be available during a crisis.

It is in the area of protections for tomorrow's biological weapons threat that we are particularly weak. The primary proposal advanced to boost our protection capacities, Project Bioshield, will not address this threat because it is targeted to addressing classical agents. In addition, it relies on the current base of science and technology in drug and vaccine development, which takes an average of 14 years to develop and introduce a new medicine. As a consequence, our protective biodefenses are essentially static and unmoving in the face of a threat that is highly variable and unpredictable. The recent experience with SARS and the danger of a new flu pandemic demonstrate the dangers of a lack of effective countermeasures and a nimble ability to develop and field them.

Recently, Ranking member TURNER and I introduced H.R. 4258 The RAPID Cures Act. This bill seeks to commission the development of a strategy to achieve a dramatic reduction in the timeframe required today for the delivery of drugs and vaccines to counter pathogen threats for which we have no existing countermeasures. The achievement of reductions and the institution of a national rapid response ''Bug-to-Drug'' capability will be a significant boost to our biodefenses against the emerging and future threat of bioengineered biological weapons, as well as naturally occurring novel threats, such as SARS or pandemic flu.

In addition to improving antimicrobial and vaccine development capabilities, an area currently neglected by the private sector, the technical spin-offs of such an endeavor are also likely to benefit the domestic pharmaceutical and biotechnology industries more generally. Broad public health benefits will also be forthcoming. Extensive literature exists to show that the long timeframes (14 years) and high failure rates typical of drug development processes today are a significant cause of high R&D costs, and thus high prescription drug costs.

Mr. Speaker, today I know that we will pass this bill, but what I and other health providers, public health experts and officials and the people of this country want to know is that we will always move just as determinedly and expeditiously to fully fund the strengthening of our public health system, the training of our first responders and provide them with the tools and facilities they need to protect us in those first critical hours where lives can and must be saved.

I again want to take this opportunity to thank and commend Chairman COX and Ranking Member TURNER for their leadership in moving this bill through Congress.

Mr. SHAYS. Mr. Speaker, I rise today in strong support of this bipartisan legislation, the Project BioShield Act. The anthrax attacks in the fall of 2001 brought the once distant threat of biological weapons into these very buildings. It is not a question of if, but when terrorists will strike again. Project BioShield marks an important step toward preparedness to deter or defeat the next terrorist attack using deadly pathogens.

I am particularly pleased that the legislation clarified some ambiguity that I had raised during the bill's initial consideration regarding safeguards for the application of medical products during emergencies for military personnel. Initially, the legislation appeared to allow the President or Secretary of HHS to remove safeguards for military personnel that were available to the general population. This legislation addressed those concerns.

This legislation will provide $5.6 billion over 10 years to develop and procure effective countermeasures against biological, chemical and radiological weapons. To counter the grave and changing threat, the bill gives the Secretary of HHS new, flexible authorities to conduct and support research and development for new vaccines and drugs. Most importantly, Project BioShield removes barriers and provides important incentives to the private sector to spur the advance of biotechnologies. If used aggressively and wisely, the authorities in this legislation will result in significantly strengthened defenses against bioterrorism.

Two words of caution: First, implementation of BioShield must be linked to the threat. Vaccines and antidotes against exotic agents may present easier, near-term opportunities for quick successes. But the Center for Disease Control and the intelligence community maintain a threat list of pathogens, and that list should focus and guide BioShield investments. Botulinum toxin ranks right behind anthrax as a known biological threat. But testimony before the Select Committee on Homeland Security concluded development of botulinum antitoxin stocks could take up to 10 years. If Project BioShield is going to provide anything more than a symbolic barrier against biological attack, that estimate has to change.

And, the success of BioShield also depends upon broader bio-preparedness priorities. The Government Reform National Security Subcommittee, which I chair, has held several hearings on bioterrorism preparedness. We learned that massive caches of stockpiled vaccines, antibiotics and drugs will protect no one if they cannot be administered quickly and safely. Public health capacity is a critical enabler to BioShield success. Surveillance systems, diagnostic tools and trained medical personnel are prerequisites to any effective defense against natural and man-made biological outbreaks.

Terrorism thrives on uncertainty. We cannot expect to vaccinate everyone against every possible pathogen. Instead, we need a well-equipped, well-trained public health system that can rapidly respond to health emergencies.

Mr. Speaker, Project Bioshield is a much needed initiative, and I would urge all of my colleagues to support for this legislation.

Mr. DINGELL. Mr. Speaker, I rise in support of S. 15, the ''Project Bioshield Act of 2004.'' This legislation reflects bipartisan bicameral negotiations that have made minor modifications to the language of H.R. 2122 which was passed by the House on July 16, 2003. I commend the hard work and dedication of all who participated in this endeavor.

In this era of heightened threats to our national security and the increased risk of harm to Americans, Project Bioshield is an unfortunate but necessary measure. There are no effective therapies for many of the ''select agents'' that have been identified as potential instrumentalities of terrorism. The basic purpose of Project Bioshield is to support research that will lead to the development and availability in the Strategic National Stockpile of ''countermeasures'' to combat public health emergencies that threaten our national security.

The bill has three basic features: enhanced countermeasure research; procurement of countermeasures; and emergency regulatory authority for approval and use of drugs, biologics, and devices that are qualified countermeasures. The Committees' work clarified, modified, and otherwise improved on the Administration's proposal in each of these areas. The bill before us reflects further refinements and does not contain major policy changes from last year's bill.

Among the significant measures in this bill are provisions aimed at enhancing accountability for actions taken pursuant to Project Bioshield. Congress will receive comprehensive information, not less than annually, on the major activities authorized by this Act. In addition, the Government Accountability Office (GAO) will provide reports on key economic and scientific elements of this program after it has been in effect for several years.

Finally, I am pleased to note that this bill maintains the approach of H.R. 2122 that funding be authorized, rather than a permanent, unlimited appropriation sought by the Administration. Bioshield should not automatically be given a higher priority over other national security or public health matters.

This is a good bill, and is a worthy continuation of our important and bipartisan work on bioterrorism preparedness. I urge all of my colleagues to support it.

Mr. WAXMAN. Mr. Speaker, we have before us today S. 15, the Project BioShield Act. This bill is substantially the same as H.R. 2122, which passed the House on July 16, of last year by a vote of 421 to 2. This bill is in essence the conference report on the bill, and includes some minor improvements made by the Senate. I urge members to support this measure as well.

Given the serious threat of bioterrorism, the development of effective countermeasures to biological agents is vital to our national security. The goal of Project BioShield is to encourage the development of these products. I fully

support the intent of this legislation. I also agree with its premise—that when the market cannot foster the development of critical products by itself, the government must rise to the challenge.

The bill before us today includes several significant improvements from earlier proposals. For example, it includes important protections against waste and abuse that are standard for government contracts, such as preserving the government's rights to review contractor's books and records. The bill also permits the use of certain streamlined procurement procedures, but only if the Secretary of Health and Human Services determines that there is a pressing need to do so.

The Senate bill appropriately strengthens some of these provisions and also allows for recovery by the government in the event of grossly negligent or reckless conduct on the part a contractor.

In emergency situations we should not impede the development of necessary products. However, any exceptions from standard procurement procedures should be made only when necessary and should be subject to review. This proposal preserves that standard.

The provisions of Bioshield authorizing the emergency distribution of unapproved drugs and devices, whose risks and benefits are not fully tested, impose an unprecedented responsibility on the government. FDA must be vigilant in protecting the public against unnecessary risks from these products.

In part because of these concerns, the bill requires that health care providers and patients be informed that the products have not been approved and of their risks. The bill also requires that manufacturers monitor and report adverse reactions to the products and keep other appropriate records about the use of the products.

These conditions are essential for the safe use of unapproved products, and they should be imposed in all cases, except in truly extraordinary circumstances. In addition, the HHS Secretary is authorized to limit the distribution of the products, to limit who may administer the products, to waive good manufacturing practice requirements only when absolutely necessary, and to require record keeping by others in the chain of distribution.

We expect the Secretary to consider the need for these additional conditions in each case and to impose them to the full extent necessary to protect the public from the risks of these products.

The bill before us today is an improvement over the original proposal, and represents a bipartisan consensus of the House, the Senate, and the White House. It deserves our support.

Mr. LANGEVIN. Mr. Speaker, I rise today in support of the Project Bioshield Act of 2004. Bioterrorism is a major threat to our national security, and I believe it is our job as members of Congress to instill confidence in the American people that a coordinated, concerted effort is being made to combat this threat. While Project Bioshield is not the only answer, it is certainly an important step towards that goal, and I hope Congress will continue to provide the funding and oversight the project needs to be effective.

This bill, much like H.R. 2212 passed by the House a year ago, authorizes the Project Bioshield initiative and will set in motion crucial efforts to develop new countermeasures to treat diseases and conditions caused by bioterror attacks and chemical, radiological and nuclear agents. Under this program, the Federal government will be able to enhance the Strategic National Stockpile, promote research and development of countermeasures, and, in an emergency, move forward with public distribution of certain drugs and treatments that may not yet have FDA approval. It is never pleasant to imagine a scenario where this kind of preparation and flexibility will be necessary, but the threat is indeed there. Project Bioshield will help lay the groundwork to respond to that threat quickly and effectively.

However, I must also mention my ongoing concern that until the Department of Homeland Security's Information Analysis and Infrastructure Protection Directorate is fully staffed and meeting expectations, the rest of DHS is at a tremendous disadvantage in determining how to allocate resources and focus energies. The proper implementation of Project Bioshield requires a reliable and comprehensive threat assessment from the Information Analysis team, a team that should include bioterror experts working closely with their peers at agencies like CDC and NIH to identify the most pressing dangers and develop a plan to combat them.

So, Mr. Speaker, I urge my colleagues to support this legislation and hope that DHS will do its part to make Project Bioshield as effective as possible.

Ms. ESHOO. Mr. Speaker, I'm pleased to support the Project Bioshield Act which encourages the development of new countermeasures to deal with diseases and conditions caused by bioterrorism attacks. It authorizes $5.6 billion over 10 years for purchasing countermeasures, such as vaccines and treatments, to bioterrorist attacks. The bill also allows the government, in the event of a national emergency involving a bioterrorism or similar attack, to distribute to the public certain drugs and treatments that have not yet been approved by the Federal Drug Administration (FDA).

The Project Bioshield Act is an important part of our mission to secure and protect our homeland and hometowns. The threat of chemical, biological and radiological attacks is too great and this bill provides necessary regulatory flexibility to the Department of Homeland Security and the Department of Health and Human Services so they can speed and promote research and development of needed countermeasures.

The September 11th tragedies and subsequent anthrax attacks made the Nation aware that the public health system is ill-prepared to mange a large scale emergency. Since then, our public health system has continued to respond to high profile threats like severe acute respiratory syndromes (SARS) and West Nile Virus which illustrate how quickly infections can spread among populations and across the globe.

Over the last 3 years, our eyes have been opened to the threats we face on our own soil. We've discovered serious vulnerabilities and I'm proud of what we've done in this bill to address them. I urge the entire House to vote for this important legislation.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of S. 15, the ''Project BioShield Act of 2004.'' This important legislation will help us to be better prepared against bioterrorism and other forms of terrorism. I just want to briefly note the jurisdictional interest of the Committee on the Judiciary in the Federal Tort Claims Act provision contained in the new §319F–1(d)(2) which is contained in 2(a) of the bill. I support the inclusion of this provision. However, I want to note that by allowing this provision to be included in the bill, the Committee on the Judiciary does not waive its jurisdiction over the provision. With that, I urge my colleagues to support the bill.

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

The SPEAKER pro tempore. All time having been yielded back, pursuant to the order of the House of Tuesday, July 13, 2004, the Senate bill is considered read for amendment, and the previous question is ordered.

The question is on third reading of the Senate bill.

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

The SPEAKER pro tempore. The question is on the passage of the Senate bill.

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

Mr. TOM DAVIS of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 2, not voting 17, as follows:

[Roll No. 376]

YEAS—414

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Bereuter
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Goss
Granger
Graves
Green (TX)

Green (WI) Greenwood Grijalva Gutierrez Gutknecht Hall Harman Harris Hart Hastings (FL) Hastings (WA) Hayes Hayworth Hefley Hensarling Herger Herseth Hill Hinchey Hinojosa Hobson Hoekstra Holden Holt Honda Hooley (OR) Hostettler Hoyer Hulshof Hunter Hyde Inslee Israel Issa Istook Jackson (IL) Jackson-Lee (TX) Jefferson Jenkins John Johnson (CT) Johnson (IL) Johnson, E. B. Johnson, Sam Jones (NC) Jones (OH) Kanjorski Kaptur Keller Kelly Kennedy (MN) Kennedy (RI) Kildee Kilpatrick King (IA) King (NY) Kingston Kirk Kline Knollenberg Kolbe Kucinich LaHood Lampson Langevin Lantos Larsen (WA) Larson (CT) Latham LaTourette Leach Lee Levin Lewis (CA) Lewis (GA) Lewis (KY) Linder Lipinski LoBiondo Lofgren Lowey Lucas (KY) Lucas (OK) Lynch Maloney Manzullo Markey Marshall Matheson Matsui McCarthy (MO) McCarthy (NY) McCollum McCotter McCrery McDermott McGovern McHugh McInnis McIntyre McKeon McNulty Meehan Meek (FL) Meeks (NY) Menendez Mica Michaud Millender-McDonald Miller (FL) Miller (MI) Miller (NC) Miller, Gary Miller, George Mollohan Moore Moran (KS) Moran (VA) Murphy Murtha Musgrave Myrick Nadler Napolitano Neal (MA) Nethercutt Neugebauer Ney Northup Norwood Nunes Nussle Oberstar Obey Olver Ortiz Osborne Ose Otter Owens Oxley Pallone Pascrell Pastor Payne Pearce Pelosi Pence Peterson (MN) Peterson (PA) Petri Pickering Pitts Platts Pombo Pomeroy Porter Portman Price (NC) Pryce (OH) Putnam Quinn Radanovich Rahall Ramstad Regula Rehberg Renzi Reyes Reynolds Rodriguez Rogers (AL) Rogers (KY) Rogers (MI) Rohrabacher Ros-Lehtinen Ross Rothman Roybal-Allard Royce Ruppersberger Rush Ryan (OH) Ryan (WI) Ryun (KS) Sabo Sánchez, Linda T. Sanchez, Loretta Sanders Sandlin Saxton Schakowsky Schiff Schrock Scott (GA) Scott (VA) Sensenbrenner Serrano Sessions Shadegg Shaw Shays Sherman Sherwood Shimkus Shuster Simmons Simpson Skelton Slaughter Smith (MI) Smith (NJ) Smith (TX) Smith (WA) Snyder Solis Souder Spratt Stark Stearns Stenholm Strickland Stupak Sullivan Sweeney Tancredo Tanner Tauscher Tauzin Taylor (MS) Taylor (NC) Terry Thomas Thompson (CA) Thompson (MS) Thornberry Tiahrt Tiberi Tierney Toomey Towns Turner (OH) Turner (TX) Udall (CO) Udall (NM) Upton Van Hollen Velázquez Visclosky Vitter Walden (OR) Walsh Wamp Waters Watson Watt Waxman Weiner Weldon (FL) Weldon (PA) Weller Wexler Whitfield Wicker Wilson (NM) Wilson (SC) Wolf Woolsey Wu Wynn Young (AK) Young (FL)

NAYS—2

Flake Paul

NOT VOTING—17

Cardin Carson (IN) Collins Conyers Deutsch Dingell Dooley (CA) Ford Frank (MA) Gephardt Hoeffel Houghton Isakson Kind Kleczka Majette Rangel

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

□ 1900

Mr. FLAKE changed his vote from ''yea'' to ''nay.''

Mr. WAXMAN changed his vote from ''nay'' to ''yea.''

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERMISSION FOR MEMBER TO REVISE AND EXTEND REMARKS ON H. RES. 713, DEPLORING MISUSE OF THE INTERNATIONAL COURT OF JUSTICE

Mr. OBEY. Mr. Speaker, today the House will vote on a resolution condemning the International Court of Justice for rendering an advisory opinion on the legal consequences of the construction of the Israeli wall and condemning the U.N. General Assembly for requesting such an opinion. This legislation was only introduced last night and strikes me as the type of knee-jerk posturing that does more harm than good.

I oppose the bill for a number of reasons, and I ask unanimous consent that my remarks appear during the discussion of H. Res. 713, which will occur later this evening.

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

There was no objection.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 107

Mr. MCGOVERN. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 107.

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

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Record votes on postponed questions will be taken tomorrow.

□ 1900

## VIETNAM HUMAN RIGHTS ACT OF 2004

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1587) to promote freedom and democracy in Vietnam, as amended.

The Clerk read as follows:

H.R. 1587

*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 ''Vietnam Human Rights Act of 2004''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
TITLE I—CONDITIONS ON INCREASED NONHUMANITARIAN ASSISTANCE TO THE GOVERNMENT OF VIETNAM
Sec. 101. Bilateral nonhumanitarian assistance.
TITLE II—ASSISTANCE TO SUPPORT HUMAN RIGHTS AND DEMOCRACY IN VIETNAM
Sec. 201. Assistance.
TITLE III—UNITED STATES PUBLIC DIPLOMACY
Sec. 301. Radio Free Asia transmissions to Vietnam.
Sec. 302. United states educational and cultural exchange programs with Vietnam.
TITLE IV—ANNUAL REPORT ON PROGRESS TOWARD FREEDOM AND DEMOCRACY IN VIETNAM
Sec. 401. Annual report.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) The Socialist Republic of Vietnam is a one-party State, ruled and controlled by the Communist Party of Vietnam (CPV), which continues to deny the right of citizens to change their government. Although in recent years the National Assembly of Vietnam has played an increasingly active role as a forum for highlighting local concerns, corruption, and inefficiency, the National Assembly remains subject to CPV direction. The CPV maintains control over the selection of candidates in national and local elections.

(2) The Government of Vietnam permits no public challenge to the legitimacy of the one-party State. It prohibits independent political, labor, and social organizations, and it continues to detain and imprison persons for the peaceful expression of dissenting religious and political views, including Pham Hong Son, Tran Dung Tien, Father Nguyen Van Ly, Dr. Nguyen Dan Que, Nguyen Vu Binh, Pham Que Duong, and Pastor Nguyen Hong Quang, among others.

(3) The Government of Vietnam continues to commit serious human rights abuses. In January 2004, the Department of State reported to Congress that during the previous year the Government of Vietnam had made ''no progress'' toward releasing political and religious activists, ending official restrictions on religious activity, or respecting the rights of indigenous minorities in the Central and Northern Highlands of Vietnam.

(4)(A) The Government of Vietnam limits freedom of religion and restricts the operation of religious organizations other than those approved by the State. While officially sanctioned religious organizations are able to operate with varying degrees of autonomy, some of those organizations continue to face restrictions on selecting, training, and ordaining sufficient numbers of clergy and in conducting educational and charitable activities. The Government has previously confiscated numerous churches, temples, and other properties belonging to religious organizations, most of which have never been returned.

(B) Unregistered ethnic minority Protestant congregations in the Northwest and Central Highlands of Vietnam suffer severe abuses, which have included forced renunciations of faith, the closure and destruction of churches, the arrest and harassment of pastors, and, in a few cases, there have been credible reports that minority religious leaders have been beaten and killed.

(C) The Unified Buddhist Church of Vietnam (UBCV), one of the largest religious denominations in Vietnam, was declared illegal in 1981. The Government of Vietnam confiscated its temples and persecuted its clergy for refusing to join the state-sponsored Buddhist organizations. For more than 2 decades, the Government has detained and confined senior UBCV clergy, including the Most Venerable Thich Huyen Quang, the Most Venerable Thich Quang Do, the Venerable Thich Tue Sy, and others.

(D) The Catholic Church continues to face significant restrictions on the training and ordination of priests and bishops, resulting in numbers insufficient to support the growing Catholic population in Vietnam. Although recent years have brought a modest easing of government control in some dioceses, officials in other areas strictly limit the conduct of religious education classes and charitable activities. Father Thaddeus Nguyen Van Ly, who was convicted in a closed trial in 2001 after publicly criticizing religious repression by the Government of Vietnam, remains in prison.

(E) The Government of Vietnam continues to suppress the activities of other religious adherents, including Cao Dai, Baha'i, and Hoa Hao who lack official recognition or have chosen not to affiliate with the State-sanctioned groups, including through the use of detention and imprisonment.

(5) The Government of Vietnam significantly restricts the freedoms of speech and the press, particularly with respect to political and religious speech. Government and Party-related organizations control all print and electronic media, including access to the Internet. The Government blocks web sites that it deems politically or culturally inappropriate, and it jams some foreign radio stations, including Radio Free Asia. The Government has detained, convicted, and imprisoned individuals who have posted or sent democracy-related materials via the Internet.

(6)(A) Indigenous Montagnards in the Central Highlands of Vietnam continue to face significant repression. The Government of Vietnam restricts the practice of Christianity by those populations, and more than 100 Montagnards have been sentenced to prison terms of up to 13 years for claiming land rights, organizing Christian gatherings, or attempting to seek asylum in Cambodia.

(B) The Government of Vietnam uses the separatist agenda of a relatively small number of ethnic minority leaders as a rationale for violating civil and political rights in ethnic minority regions.

(C) The Government of Vietnam arrested or detained nearly 300 Montagnards during 2003 and since then many hundreds of Montagnards have gone into hiding, fearing arrest, interrogation, or physical abuse by government authorities.

(D) During Easter weekend in April 2004, thousands of Montagnards gathered to protest their treatment by the Government of Vietnam, including the confiscation of tribal lands and ongoing restrictions on religious activities. Credible reports indicate that the protests were met with a violent response and that many demonstrators were arrested, injured, or are in hiding, and that others were killed.

(E) Government officials continue to restrict access to the Central and Northwest Highlands of Vietnam by diplomats, nongovernmental organizations, journalists, and other foreigners, making it difficult to verify conditions in those areas.

(7)(A) United States refugee resettlement programs for Vietnamese nationals, including the Orderly Departure Program (ODP), the Resettlement Opportunities for Returning Vietnamese (ROVR) program, the Priority One (P1) program and the resettlement of boat people from refugee camps throughout Southeast Asia, were authorized by law in order to rescue Vietnamese nationals who have suffered persecution on account of their wartime associations with the United States, as well as those who currently have a well-founded fear of persecution on account of race, religion, nationality, political opinion, or membership in a particular social group.

(B) While those programs have served their purposes well, a significant number of eligible refugees were unfairly denied or excluded, in some cases by vindictive or corrupt Vietnamese officials who controlled access to the programs, and in others by United States personnel who imposed unduly restrictive interpretations of program criteria.

(C) The Department of State has agreed to extend the September 30, 1994, registration deadline for former United States employees, ''re-education'' survivors, and surviving spouses of those who did not survive ''re-education'' camps to sign up for United States refugee programs, as well as to resume the Vietnamese In-Country Priority One Program in Vietnam to provide protection to victims of persecution on account of race, religion, nationality, political opinion, or membership in a particular social group who otherwise have no access to the Orderly Departure Program.

(D) The former U.S. Immigration and Naturalization Service agreed to resume the processing of former United States employees under the U11 program, which had been unilaterally suspended by the United States Government, as well as to review the applications of Amerasians, children of American servicemen left behind in Vietnam after the war ended in April 1975, for resettlement to the United States under the Amerasian Homecoming Act of 1988.

(8) Congress and people of the United States are united in their determination that the expansion of relations with Vietnam, a country whose government engages in serious violations of fundamental human rights, should not be construed as approval of or complacency about such practices. The promotion of freedom and democracy around the world is and must continue to be a central objective of United States foreign policy. Congress remains willing and hopeful to recognize improvement in the future human rights practices of the Government of Vietnam, which is the motivating purpose behind this Act.

## TITLE I—CONDITIONS ON INCREASED NONHUMANITARIAN ASSISTANCE TO THE GOVERNMENT OF VIETNAM

### SEC. 101. BILATERAL NONHUMANITARIAN ASSISTANCE.

(a) ASSISTANCE.—

(1) IN GENERAL.—United States nonhumanitarian assistance may not be provided to the Government of Vietnam in an amount exceeding the amount so provided for fiscal year 2004—

(A) for fiscal year 2005 unless not later than 30 days after the date of the enactment of this Act the President determines and certifies to Congress that the requirements of subparagraphs (A) through (D) of paragraph (2) have been met during the 12-month period ending on the date of the certification; and

(B) for each subsequent fiscal year unless the President determines and certifies to Congress in the most recent annual report submitted pursuant to section 401 that the requirements of subparagraphs (A) through (E) of paragraph (2) have been met during the 12-month period covered by the report.

(2) REQUIREMENTS.—The requirements of this paragraph are that—

(A) the Government of Vietnam has made substantial progress toward releasing all political and religious prisoners from imprisonment, house arrest, and other forms of detention;

(B)(i) the Government of Vietnam has made substantial progress toward respecting the right to freedom of religion, including the right to participate in religious activities and institutions without interference by or involvement of the Government; and

(ii) has made substantial progress toward returning estates and properties confiscated from the churches;

(C) the Government of Vietnam has made substantial progress toward allowing Vietnamese nationals free and open access to United States refugee programs;

(D) the Government of Vietnam has made substantial progress toward respecting the human rights of members of ethnic minority groups in the Central Highlands and elsewhere in Vietnam; and

(E)(i) neither any official of the Government of Vietnam nor any agency or entity wholly or partly owned by the Government of Vietnam was complicit in a severe form of trafficking in persons; or

(ii) the Government of Vietnam took all appropriate steps to end any such complicity and hold such official, agency, or entity fully accountable for its conduct.

(b) EXCEPTION.—

(1) CONTINUATION OF ASSISTANCE IN THE NATIONAL INTEREST.—Notwithstanding the failure of the Government of Vietnam to meet the requirements of subsection (a)(2), the President may waive the application of subsection (a) for any fiscal year if the President determines that the provision to the Government of Vietnam of increased United States nonhumanitarian assistance would promote the purposes of this Act or is otherwise in the national interest of the United States.

(2) EXERCISE OF WAIVER AUTHORITY.—The President may exercise the authority under paragraph (2) with respect to—

(A) all United States nonhumanitarian assistance to Vietnam; or

(B) one or more programs, projects, or activities of such assistance.

(c) DEFINITIONS.—In this section:

(1) SEVERE FORM OF TRAFFICKING IN PERSONS.—The term ''severe form of trafficking in persons'' means any activity described in section 103(8) of the Trafficking Victims Protection Act of 2000 (Public Law 106–386 (114 Stat. 1470); 22 U.S.C. 7102(8)).

(2) UNITED STATES NONHUMANITARIAN ASSISTANCE.—The term ''United States nonhumanitarian assistance'' means—

(A) any assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of that Act, relating to the Overseas Private Investment Corporation), other than—

(i) disaster relief assistance, including any assistance under chapter 9 of part I of that Act;

(ii) assistance which involves the provision of food (including monetization of food) or medicine;

(iii) assistance for refugees; and

(iv) assistance to combat HIV/AIDS, including any assistance under section 104A of that Act; and

(B) sales, or financing on any terms, under the Arms Export Control Act.

**TITLE II—ASSISTANCE TO SUPPORT HUMAN RIGHTS AND DEMOCRACY IN VIETNAM**

**SEC. 201. ASSISTANCE.**

(a) IN GENERAL.—The President is authorized to provide assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote democracy and internationally recognized human rights in Vietnam.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President to carry out subsection (a) $2,000,000 for each of the fiscal years 2005 and 2006.

**TITLE III—UNITED STATES PUBLIC DIPLOMACY**

**SEC. 301. RADIO FREE ASIA TRANSMISSIONS TO VIETNAM.**

(a) POLICY OF THE UNITED STATES.—It is the policy of the United States to take such measures as are necessary to overcome the jamming of Radio Free Asia by the Government of Vietnam, including the active pursuit of broadcast facilities in close geographic proximity to Vietnam.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to such amounts as are otherwise authorized to be appropriated for the Broadcasting Board of Governors, there are authorized to be appropriated to carry out the policy under subsection (a) $9,100,000 for the fiscal year 2005 and $1,100,000 for the fiscal year 2006.

**SEC. 302. UNITED STATES EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS WITH VIETNAM.**

It is the policy of the United States that programs of educational and cultural exchange with Vietnam should actively promote progress toward freedom and democracy in Vietnam by providing opportunities to Vietnamese nationals from a wide range of occupations and perspectives to see freedom and democracy in action and, also, by ensuring that Vietnamese nationals who have already demonstrated a commitment to these values are included in such programs.

**TITLE IV—ANNUAL REPORT ON PROGRESS TOWARD FREEDOM AND DEMOCRACY IN VIETNAM**

**SEC. 401. ANNUAL REPORT.**

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act and every 12 months thereafter, the Secretary of State shall submit to the Congress a report on the following:

(1)(A) The determination and certification of the President that the requirements of section 101(a)(2) have been met, if applicable.

(B) The determination of the President under section 101(b)(2), if applicable.

(2) Efforts by the United States Government to secure transmission sites for Radio Free Asia in countries in close geographical proximity to Vietnam in accordance with section 301.

(3) Efforts to ensure that programs with Vietnam promote the policy set forth in section 302 and with section 102 of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104–319) regarding participation in programs of educational and cultural exchange.

(4) Lists of persons believed to be imprisoned, detained, or placed under house arrest, tortured, or otherwise persecuted by the Government of Vietnam due to their pursuit of internationally recognized human rights. In compiling such lists, the Secretary shall exercise appropriate discretion, including concerns regarding the safety and security of, and benefit to, the persons who may be included on the lists and their families. In addition, the Secretary shall include a list of such persons and their families who may qualify for protection under United States refugee programs.

(5) A description of the development of the rule of law in Vietnam, including, but not limited to—

(A) progress toward the development of institutions of democratic governance;

(B) processes by which statutes, regulations, rules, and other legal acts of the Government of Vietnam are developed and become binding within Vietnam;

(C) the extent to which statutes, regulations, rules, administrative and judicial decisions, and other legal acts of the Government of Vietnam are published and are made accessible to the public;

(D) the extent to which administrative and judicial decisions are supported by statements of reasons that are based upon written statutes, regulations, rules, and other legal acts of the Government of Vietnam;

(E) the extent to which individuals are treated equally under the laws of Vietnam without regard to citizenship, race, religion, political opinion, or current or former associations;

(F) the extent to which administrative and judicial decisions are independent of political pressure or governmental interference and are reviewed by entities of appellate jurisdiction; and

(G) the extent to which laws in Vietnam are written and administered in ways that are consistent with international human rights standards, including the requirements of the International Covenant on Civil and Political Rights.

(b) CONTACTS WITH OTHER ORGANIZATIONS.—In preparing the report under subsection (a), the Secretary shall, as appropriate, consult with and seek input from nongovernmental organizations, human rights advocates (including Vietnamese-Americans and human rights advocates in Vietnam), and the United States Commission on Religious Freedom.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

Mr. EVANS. Mr. Speaker, I am opposed to the motion.

The SPEAKER pro tempore. Is the gentleman from California (Mr. LANTOS) opposed to the motion?

Mr. LANTOS. No, Mr. Speaker, I am in favor of the motion.

The SPEAKER pro tempore. Under clause 1 of rule XV, the gentleman from Illinois (Mr. EVANS) will be recognized for 20 minutes in opposition to the motion.

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

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

Mr. Speaker, I am pleased to present to the House H.R. 1587, the Vietnam Human Rights Act, a bill designed to promote democracy and human rights in Vietnam and to give hope to those voices of freedom who today are systematically oppressed and silenced.

Mr. Speaker, the legislation we are considering today is almost identical to that which has cleared the House twice, one as a stand-alone bill which I sponsored a couple of years ago and a second time as an amendment to the State Department bill, the reauthorization bill.

The Vietnam Human Rights Act initially cleared the House by an overwhelming majority, 410 to 1, in September of 2001, coinciding with legislation to ratify the bilateral trade agreement with Vietnam. Despite the near unanimous vote, the Vietnam Human Rights Act was subsequently blocked and never voted on in the Senate.

The message then, Mr. Speaker, as it is today, is that human rights are central, are at the core of our relationship with governments and the people they purport to represent. The United States of America will not turn a blind eye to the oppression of a people, any people in any region of the world.

As the Vietnam Human Rights Act languished in the Senate a couple of years ago, many thought, and I would say naively but with good faith, that the bilateral trade agreement with Vietnam would lead to improved human rights conditions in Vietnam. Unfortunately, this has not been the case, and for many Vietnamese the situation is dramatically worse than it was just 3 years ago.

The government of Vietnam, Mr. Speaker, has scoffed at the Vietnam Human Rights Act and dismissed charges of human rights abuses, pleading the tired mantra of interference in the internal affairs of their government and that our struggle is some way related to the war in Vietnam. They say, Vietnam is a country, not a war. That is their protest, and I would say that is precisely the issue.

Today's debate is about the shameful human rights record of a country, more accurately, of a government, and it is not about the war. And, of course, Vietnam is a country with millions of wonderful people who yearn to breathe free and to enjoy the blessings of liberty. We say, behave like an honorable government, stop bringing dishonor and shame to your government by abusing your own people and start abiding by internationally recognized U.N. covenants that you have signed.

We know, Mr. Speaker, from the State Department Human Rights Reports and leading international human rights organizations that the government of Vietnam inflicts terrible suffering on countless people.

It is a regime that arrests and imprisons writers, scientists, academics, religious leaders and even veteran communists in their own homes and lately in Internet cafes for speaking out for freedom and against corruption.

It is a government that crushes thousands of Montagnard protestors, as they did in the Central Highlands during the Easter weekend, killing and beating many peaceful protestors.

They have, the government, forcibly closed over 400 Christian churches in the Central Highlands, and the government continues to force tens of thousands of Christians to renounce their faith. I am happy to say that many of these folks have resisted those pressures. One pastor put it at 90 percent

have refused to renounce their Christian faith, but the government is trying to compel them to renounce their faith.

This is a government that has detained the leadership of the Unified Buddhist Church of Vietnam and continues to attempt to control the leadership of the Catholic church.

This is a government that has imprisoned a Catholic priest by the name of Father Ly and meted out a 10-year prison sentence. Why? Because he submitted testimony to the International Religious Commission on Human Rights. For that, for writing a couple of pages of facts and his opinion, he got 10 years of prison.

My speech today, Mr. Speaker, on this floor would easily fetch me a 15-year prison sentence replete with torture if I were a Vietnamese national making these comments in Vietnam.

And in yet another Orwellian move, Vietnam on Monday, this past Monday, July 12, promulgated an Ordinance on Beliefs and Religions which goes into effect on November 15. This new anti-religious law will further worsen religious persecution in Vietnam.

Amazingly, it bans the so-called abuse of the right to religious freedom to undermine peace, independence, and national unity, whatever that is. This new law is the most capricious and arbitrary policy imaginable, designed to ensnare and incarcerate believers for undermining, again, peace, independence and national unity, whatever that means.

Moreover, Mr. Speaker, if a religious person ''disseminates information against the laws of the State,'' in other words, disagrees with anything that the Communist government enacts, such dissemination is a punishable crime.

When is enough, enough, Mr. Speaker? Vietnam needs to come out of the dark ages of repression, brutality and abuse and embrace freedom, the rule of law, and respect for fundamental human rights.

I respectfully submit that the legislation we are considering today offers a clear framework for improving human rights in Vietnam. It is a bipartisan piece of legislation, and I hope the membership will support it.

H.R. 1587 requires the President to certify each year on the progress or the lack of it of the regime towards respecting human rights based on an extensive report required by the law. Specifically, to avoid possible sanction against Vietnam, the President would have to certify substantial progress by Vietnam towards releasing all political prisoners and religious prisoners, respect for religious freedom in general, and return of confiscated property.

The bill requires substantial progress by the government towards allowing Vietnam nationals free and open access to U.S. refugee programs and calls for respect for the ethnic minority groups in the Central Highlands.

The bill seeks to ensure that the government is not complicit in human trafficking. Today Vietnam is on the State Department's Tier II Watch List due to the government's failure to provide evidence of efforts to combat severe forms of trafficking, particularly its inadequate control of two state-controlled labor companies that sent workers to American Samoa from 1999 to 2001.

Unless the regime shows improvement in human rights, they will be unable to receive an increase over 2004 levels in nonhumanitarian U.S. foreign assistance. This is a modest but not insignificant penalty to a government that is brutalizing its own people.

H.R. 1587 also authorizes funds for NGOs to promote democracy in Vietnam and to help to overcome the jamming of Radio Free Asia.

Mr. Speaker, I hope all Members will support this bill.

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

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

Mr. Speaker, I have a great deal of respect for my long-time colleague and friend, the gentleman from New Jersey (Mr. SMITH). We have worked together for the veterans of America for many years. However, I do not see eye to eye with him on this issue as the best way to address human rights in Vietnam.

I am also afraid that this resolution and the sanctions enclosed will damage relations between our two countries. I also feel that this resolution will only embolden hardliners within Vietnam.

Mr. Speaker, yes, Vietnam can improve its human rights record, but I also believe it is a very complex relationship. It is a relationship built on dialogue and gradual steps, not sanctions. The country of Vietnam has provided unparalleled assistance to recover our soldiers' remains. The Vietnamese are working hard to protect intellectual property rights and improve the climate for foreign investment. Vietnam is also the 15th focus country of the President's HIV/AIDS initiative. These are three important steps that would be endangered by the shift in relations under this legislation.

Mr. Speaker, we can make progress with Vietnam, but this resolution is not the proper way. The Members supporting this legislation are good friends, and I respect their commitments. However, I hope that we work with each other to advance human rights in Vietnam. But I do not believe that this legislation is the proper vehicle. I urge my colleagues to vote against this legislation.

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

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of H.R. 1587; and I would like to personally thank the gentleman from New Jersey (Mr. SMITH) for the terrific job not only for Vietnam but for people who are suffering under torture and under oppression throughout the world. He is truly the conscience of this body, and he makes sure that we never forget that people all over the world are looking to us. We are their only hope, just like in the past century when those people who suffered under Nazism and Communism knew that the only hope they had was the United States that was committed to its ideals.

Today, this bill, H.R. 1587, is consistent with that concept. It is consistent with the ideals of America, and it is telling the world we still believe in human rights and freedom and democracy, just like George Washington and our other Founding Fathers.

This bill, however, does not represent necessarily the opinion of every American. Let us note that just 3 years ago we made an agreement with this government of Vietnam, this monstrous abuser of human rights, we made a trade agreement and a business agreement with them. And we are always told, if we just do business with the Vietnamese or if we just do business with the Chinese, their dictatorial government will morph into a democratic society and people's liberties will be protected.

What have we seen? The situation in China is worse today than it has ever been. The situation in Vietnam is disintegrating when it comes to democracy and human rights. The latest victims have been the Montagnard people in the Central Highlands of Vietnam.

I have a personal attachment to the Montagnards. In 1967, I spent considerable time with them in the Highlands near Pleiku. They protected Americans. They gave their own lives so American soldiers would not die. And I will tell you that they are brave, wonderful people, just like the other people in Vietnam. They just simply want to believe in God and have the right to worship God and to speak and to have the right to gather together.

We should support the people of Vietnam, and that is what this does and the people everywhere who long for freedom. It puts us on their side.

Mr. EVANS. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. GEORGE MILLER).

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding me time. I rise in opposition to H.R. 1587 and urge a no vote by the House.

There is no one in this House who does not wish to see improvements on Vietnam's policies on democracy and freedom. I have visited the nation on four occasions in the last 5 years, meeting with everyone from workers in shoe factories to high-level government ministers. There are many and I would say a growing number of Vietnamese who share the hope of a more open and democratic society and who are working to achieve these goals.

This legislation will not help them.

There are many in our own veterans' organizations who are working closely with the Vietnamese on the POW/MIA issue. I have gone to the excavation sites and seen the close cooperation that has resulted in the repatriation of over 500 remains of their loved ones here in the United States.

This legislation will not help in that effort.

Our government is working closely with the Vietnamese to address the issues of infectious disease control, including AIDS and SARS, which are real issues because of the heavy travel between our countries. We know that many Vietnamese acted quickly in the case of the SARS crisis and controlled what might have been a far more severe pandemic.

This legislation will not promote improved cooperation on health policy.

Throughout Vietnam, in the aftermath of the normalization of relationships, the passage of the Bilateral Trade Agreement, U.S. businesses are investing hundreds of millions of dollars to build a better trade, to provide jobs, and to improve the economic relations between our countries.

This legislation is not going to enhance those investments or those benefits.

I have been working with the international labor organizations and U.S. companies to improve Vietnam's compliance with basic labor rights and standards, and we have seen improvements in many areas, although much additional work remains to be done.

□ 1915

This bill is not going to provide or achieve those goals.

On these, and many other areas, we are working to improve our relationship and improve the nature of the society in Vietnam for the benefit of its residents, who include the family members of millions of U.S. residents and citizens.

This bill will set back those efforts. It provides the harshest elements in the Vietnamese government with the rationale for reacting to our pressure. Does anyone in this Chamber, after our long experience in Vietnam, seriously believe that the Congress ordering them to change an internal policy in the nation, however desirous we may be of seeing that change, is going to persuade the government in Hanoi to do it because we so order it?

We all share the hope that Vietnam will evolve into a freer and more open, democratic nation. We hold the same goals for other nations in the region and around the world where records of human, labor and religious rights are no better than in Vietnam and, in some cases, worse.

Just earlier today, prior to this legislation, we considered legislation criticizing China, whose record on religious freedom, political democracy, and labor rights is certainly as unacceptable as Vietnam's, but it would not withdraw the nonhumanitarian assistance as this bill does. It urges them to improve their record on intellectual property.

We know why this legislation periodically resurfaces. We understand that there are areas in this Nation with large concentrations of Vietnamese expatriates who remain embittered about the outcome of the war and the government in control in Hanoi. Many of those same expatriates send hundreds of millions of dollars back each year to Vietnam to assist their relatives who still live in that nation. I understand their viewpoint, and I was one of the Congressmen sent in the 1970s to inspect the refugee exodus from Vietnam.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from California (Ms. LOFGREN).

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

Ms. LOFGREN. Mr. Speaker, we need to pass the Vietnam Human Rights Act to send a message to Vietnam's Communist government. Vietnam cannot continue to violate human rights and expect further normalization of the relationship between Vietnam and the United States.

Just 2 months ago, on Easter week, Human Rights Watch reported that peaceful protests by indigenous minority Christian Montagnards turned violent when police used tear gas, electric truncheons, and water cannons on protestors. Reports indicate that police arrested several individuals, many of whose whereabouts are still unknown. Worse yet, there are reports of torture, police beatings, and deaths associated with this crackdown on the Montagnards.

In recent weeks, reports indicate that the Vietnamese government has taken the vice president and the secretary general of the Vietnam Mennonite Church into custody for simply conducting a peaceful criticism. We know that they have also harassed and detained leaders of the Unified Buddhist Church of Vietnam and the Catholic Church.

Religious leaders and followers are not alone. The Vietnamese Communists have come down on the press and have censored 2,000 of Vietnam's 5,000 Web sites; and worse yet, they arrested a Vietnamese writer and journalist just because he submitted written testimony to the United States Congress. How about that?

We have repeatedly passed resolutions addressing the violations on Vietnam Human Rights Day. We introduced a resolution recognizing those in Vietnam who have been tortured and imprisoned; and last November, we passed a resolution calling for religious freedom and protection of human rights. We have introduced a resolution objecting to the treatment of Father Ly. Now it is time to pass a bill, not just a resolution, that will give us the tools we need to not only send a message to Vietnam but to take action against Vietnam for their continuous human rights violations.

We need to pass this bill. Vietnam cannot expect a friendship with us until they finally respect the rights of their citizens.

I thank the gentleman for yielding me the time.

Mr. EVANS. Mr. Speaker, I only have one more speaker, and I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. LANTOS), the distinguished ranking member on the Committee on International Relations, my good friend and colleague.

Mr. LANTOS. Mr. Speaker, I rise in strong support of the Vietnam Human Rights Act, and I urge all of my colleagues to do so as well.

I first would like to commend the gentleman from New Jersey (Mr. SMITH), my good friend and most distinguished colleague, for introducing this important legislation and for doggedly pursuing the Vietnam human rights issue as he does, the human rights issues across the globe.

None of us here today should be under any illusions about the government of Vietnam. According to the Department of State's human rights report, the Vietnamese government is an unrepentant, authoritarian regime which does not allow political opposition. Freedom of expression does not exist in Vietnam. Vietnamese are locked in prison for simply expressing their political opinions.

The Vietnamese government also places severe restrictions on the expression of religious beliefs, particularly upon Buddhists who do not worship as part of the official church and upon Christians in the Vietnamese highlands.

With the approval of the U.S.-Vietnam bilateral trade agreement 3 years ago, the political security and economic relationship between the United States and Vietnam has become increasingly complex, but we must continue to send a strong signal to Hanoi that the United States continues to make it a top priority to promote internationally recognized human rights in Vietnam.

Passage of the Smith legislation will indicate to the administration and to the Vietnamese government that the Congress expects to see real progress on the human rights front in Vietnam and that we have not forgotten those Vietnamese who are being persecuted for their beliefs.

Our legislation will ensure that there is not a rollback in our trade and aid relationship with Vietnam, only a cap on the level of our nonhumanitarian aid to the Vietnamese, unless human rights conditions are met.

Mr. Speaker, I again commend my colleague from New Jersey, and I urge all of my colleagues to support the passage of this important bill.

Mr. EVANS. Mr. Speaker, I have one last speaker, and I yield such time as

he may consume to the gentleman from Connecticut (Mr. SIMMONS).

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

Mr. SIMMONS. Mr. Speaker, I will place in the RECORD the text of U.S. Ambassador Raymond Burghardt's March 4 speech on U.S.-Vietnam relations, a letter from the American Chamber of Commerce Hanoi, and an article from the National Catholic Reporter following my remarks.

Mr. Speaker, I rise in opposition today to H.R. 1587, the Vietnam Human Rights Act of 2003, and I do so with the greatest amount of respect for my colleague, the gentleman from New Jersey (Mr. SMITH), the chairman of the Committee on Veterans Affairs. I appreciate his tireless efforts on behalf of human rights and religious freedom around the world; and as a Vietnam veteran, I very much appreciate his courageous leadership on veterans issues.

My concern with taking up this legislation at this time regards several issues.

First, during this 108th Congress alone we have had already three House resolutions that address alleged human rights and religious freedom issues regarding Vietnam. I cannot think of any other country that has as much negative attention by this body as Vietnam. Surely, there are other countries around the world that deserve a little bit of attention from us. I do not think it is fair that we spend this amount of time and this number of resolutions on Vietnam.

Second, Mr. Speaker, I believe we are at an important crossroads in our relationship with Vietnam. As we approach the 10th anniversary of normal relations, I think it is time to examine some of the good things that have occurred between our two countries: tourism, trade, educational exchanges. I think it is time that we begin to send a positive, clear message to the Vietnamese people that we are serious about working together in a positive and constructive fashion on issues of mutual benefit.

I mentioned, Mr. Speaker, that I am a Vietnam veteran. I served there for 20 months. I spent almost 2 years there as a civilian, and I made a commitment as a Vietnam veteran to my fallen comrades and to their families to bring their remains home to their families.

I am holding in my hand a commemorative bracelet that commemorates Army Captain Arnold Edward Holm. Arnie Holm was born and raised in Waterford, Connecticut. He was an outstanding athlete in high school. He lost his life in June 1972 when his light observation helicopter was shot down in the central highlands. The family still lives in my district; and 2 years ago, they asked me to assist them in locating his remains.

A year ago, I traveled to Vietnam for the first time in 30 years in an effort to locate Arnie Holm's crash site. Working with both American and Vietnamese officials, we spent hundreds of man-hours in the sweltering jungle looking for Arnie. Although we failed at the time, the search goes on; and the only way we will ever be able to bring closure to the family of Arnie Holm is through the continued cooperation of the Vietnamese government.

I have seen firsthand their commitment to this important humanitarian recovery effort, and I thank them for it.

My colleagues may be surprised to learn that since the Joint POW–MIA Accounting Command, or JPAC, began recovering American remains in Vietnam, 16 U.S. and Vietnamese officers have died. Eight Americans and eight Vietnamese were killed when a helicopter crashed on April 7, 2001. That is right. Eight Vietnamese officials died while searching for the very men that were killing their own countrymen 30 years before.

Up to May of this year, the U.S. and Vietnam have conducted 93 joint missions, resulting in the recovery of 822 remains. They have identified and returned over 500 U.S. personnel remains to their loved ones. That is 500 American families in 43 States that have been provided closure thanks to the Vietnamese, and that includes the family of Major Peter M. Cleary who lives in Colchester, Connecticut, just a few miles from my home.

If this program, Mr. Speaker, does not reflect the humanitarian spirit of the Vietnamese people, I do not know what does; and given the long and bitter experience that they had with the American war in Vietnam, their willingness to cooperate in this program merits special attention.

Just this past month, Jerry Gennings, the Deputy Assistant Secretary for POW–MIA Affairs, returned and said that the outcome of his discussions in Vietnam is promising and the Vietnam government offers us the opportunity to achieve significant results.

Last November, the USS *Vandergrift* returned to Ho Chi Minh City, the first time in 30 years that a U.S. Navy ship has been to Vietnam, and another ship plans to visit Danang this year.

I would also remind my colleagues that President Bush announced just last month that Vietnam would be added as the 15th focus country of the emergency plan for HIV/AIDS. The President said, ''Now, after long analysis by our staff, we believe that Vietnam deserves this special help. We're putting a history of bitterness behind us.'' Then he continued, ''Together we'll fight the disease. You've got a friend in America.'' The President of the United States has said, ''You've got a friend in America.''

This resolution before us this evening conveys no such message. I realize, Mr. Speaker, that the intent of this legislation is to promote freedom and democracy in Vietnam; but the question is, does it do it in a useful manner?

The State Department has said this bill is a ''blunt instrument that risks inhibiting progress in bilateral trade, counterterrorism, POW–MIA accounting, counternarcotic and refugee processing/resettlement.'' They go on to say, ''Imposition of unilateral sanctions will not lead to an improved GVN human rights record.''

Mr. Speaker, I think we should be concerned that our own State Department does not support this legislation and is concerned that it will damage progress in our bilateral relations.

My friend, the gentleman from New Jersey (Mr. SMITH), expresses his concern about the issue of human rights, and this is an important issue; but let us not forget the fact that for many years our country rained devastation upon the Vietnamese people and their country. Hundreds of thousands of Vietnamese lives were lost, many more wounded; and the countryside was devastated. Let us not forget that thousands of Vietnamese children are born today with birth defects, perhaps because of the millions of gallons of Agent Orange that we spread across their country, and let us not forget that the remains of tens of thousands of Vietnamese soldiers have not been recovered, even as the Vietnamese people help us to recover the remains of our own servicemen.

The issues of human rights cut in both directions. The United States itself must be held accountable for its own moral obligation to the Vietnamese people for our past policies and practices.

□ 1930

As the gospel of John says, ''He that is without sin among you, let him cast the first stone.'' I encourage my colleagues not to judge the Vietnamese too harshly in the realm of human rights lest they judge us harshly in return.

Mr. Speaker, I believe we are making progress in our relations with the Vietnamese people and with their government; and I believe this bill, in the words of our own State Department, is a blunt instrument that may do more harm than good. I urge my colleagues to vote ''no'' to show the people that the war is over. It is time to bind up the wounds of the war and to show them, in the words of our own President, that they have a friend in America.

Mr. Speaker, I submit for the RECORD the documentation I referred to earlier on this topic:

U.S. EMBASSY,
*Hanoi, Vietnam, March 4, 2004.*

U.S.-VIETNAM RELATIONS: 30 YEARS AFTER THE WAR, 10 YEARS AFTER NORMALIZATION

Yesterday afternoon I walked over to the Hong Kong Art Museum and looked at the Asia Society's excellent exhibition of ''Images from the War.'' The exhibition reminded me that today in Vietnam, nearly 30 years after the war, the past still permeates the present. The memory of the war certainly remains among the half of the population that endured it. But, I also was struck by how

much those pictures captured a past that most people in Vietnam do not dwell on very much. The Vietnamese people and leaders live in the present and look to the future. They deserve a great deal of admiration for their ability to put the past behind them.

I was in Vietnam during the war, not as a soldier, but as a diplomat. I was in Saigon from 1970 to 1973. Now that I am back in Vietnam 30 years later, I am conscious of that history every day. But like the Vietnamese people and their leaders, I keep my focus on the present and the future.

Talking about Vietnam while in Hong Kong also evokes memories for me of the tough period in Vietnam's history that immediately followed the war. In 1979, when war broke out between China and Vietnam, I was working at our Consulate here in Hong Kong. Afterwards, thousands of boat people arrived from Vietnam and I spent the better part of a year interviewing them to learn why they had come to Hong Kong or Macau. I also worked with NGOs like Catholic Relief Service to feed and clothe the refugees in the camps. During that period, we came up with what became the Orderly Departure Program as a way to stop the flow of refugees. The ODP was modeled on and named after a program created by the Hong Kong Government to bring ethnic Chinese from Haiphong and Cholon, Saigon's Chinese quarter, to join family members in this city.

In the last ten years, a new chapter has opened between the United States and Vietnam. The U.S.-Vietnam relationship is still young. President Clinton only lifted the embargo in 1994. We established a liaison office in January 1995, and we normalized relations in July 1995. We opened our consulate in Ho Chi Minh City in 1997. Our first Ambassador came in 1997 and I am only the second Ambassador to a unified Vietnam. Our presence in Vietnam has grown rapidly, to a medium-sized embassy in Hanoi and consulate in Ho Chi Minh City. And, we will probably grow a little more in the future.

Our relationship began by building trust on issues left over from the war, such as the accounting for MIAs, reuniting families of refugees, and humanitarian programs. But then, after normalization, we sought to widen the relationship with strengthened commercial and economic ties that benefit both countries. The fruits of that thinking, the Bilateral Trade Agreement (BTA), took four years to negotiate and finally took effect on December 10, 2001, five days before my arrival.

During the past year, we have seen further remarkable progress on a widening range of bilateral issues. A year ago, the focus was almost exclusively on the commercial benefits of our bilateral relations, while there was little progress on other aspects of a normal relationship; In mid-year, Vietnam's leadership decided to give greater priority and attention to relations with the United States. The result has been easier access to the leaders for Mission officers and visitors from Washington and progress on many fronts.

Last year was a very good year for U.S.-Vietnam relations. In the fall we had an important series of high-level Vietnamese government visitors to the U.S. culminating with Deputy Prime Minister Vu Khoan in December. These included the Ministers of Foreign Affairs, Trade, and Planning and Investment. The November visit to Washington by Defense Minister Pham Van Tra represented the normalization of our military ties and was followed a week later by the first U.S. Navy ship visit to Vietnam in thirty years. My wife and I traveled up the Saigon River on that ship and experienced the excitement of the American sailors at what they knew was an historic journey as well as the excitement of the crowds of Vietnamese who greeted our arrival.

Breakthroughs in 2003 enabled us to conclude several agreements that had been underway for years without apparent progress. These were the civil aviation agreement that will permit air service on U.S. or Vietnamese carriers between Vietnam and the U.S. That could include between Hong Kong and Ho Chi Minh City within the next year. Our new counter narcotics agreement will enable the U.S. and Vietnam to work together to stem the flow of illegal drugs through Vietnam, as well as carry out other law enforcement and counter-terrorism training. And our textile agreement established parameters from the import of textiles to the U.S. We now anticipate more dialogue and cooperation with Vietnam in dealing with regional and transnational issues such as fighting against narcotics, trafficking in persons, and terrorism.

In the midst of this progress, we do still have differences in our viewpoints on some important areas including human rights and religious freedom. The Communist Party retains a monopoly on political power in Vietnam. Advocacy of a multi-party system is forbidden. Even basic freedoms of speech, assembly, and religion guaranteed in Vietnam's own Constitution are sometimes superseded in the interest of what the Government calls ''national solidarity.'' We've seen several cases over the past year in which people who did nothing more than exchange critical e-mails received heavy prison sentences. We also have raised with the Vietnamese government our concerns about the harassment of ethnic minority Protestants in the Central and Northwest Highlands. This harassment includes cases of forced renunciation of faith, the closing of house churches, and a very slow process of allowing churches to legally register. The U.S. House of Representatives has now twice passed versions of a Vietnam Human Rights Act that would cap non-humanitarian assistance from the USG at current levels. Although neither bill passed the Senate, Congressional concerns remain strong. Senator Brownback held Foreign Relation Committee Meetings just a little over a week ago which focused on human rights. These human rights issues certainly do affect the pace at which we can develop bilateral relations. But I nonetheless remain confident that we will be able to deal with those issues while further developing our overall relationship. We speak frankly about our disagreements while recognizing that the longer-term trend since the beginning of Vietnam's economic renovation policy in 1986 has in fact been a dramatic expansion of personal freedoms.

The foreign community in Vietnam, both multilateral agencies and bilateral donors like the U.S., are actively involved in helping Vietnam carry out its economic reforms. The U.S. assistance program in Vietnam predates our formal diplomatic relations. The two largest parts of it today are to counter the spread of HIV/AIDS—where we are the largest bilateral donor—and to provide technical assistance in helping Vietnam to implement the BTA and to prepare for accession to the WTO. Our assistance programs promote civil society development, rule of law, advocacy for persons with disabilities and those living with HIV/AIDS, environmental management, and trade reform.

In working with Vietnam to create a more genuine system of rule by law, to train judges and lawyers, and to build new standards of transparency and accountability, we are having a major impact, not only on bringing Vietnam up to the level of international trading norms, but also fundamentally changing, for the better, the relations between the citizens and the State.

As the scope of our relationship with Vietnam broadens, mutual understanding becomes even more critical. Because of the legacy of war and Vietnam's long period of isolation, understanding can be particularly difficult for both countries. Our cultural and educational exchanges have grown dramatically. We have the largest U.S. Government-funded Fulbright program in the world, training economists, businessmen, public policy experts, English-teachers, and professors in the Social Sciences and Humanities. We now have a new program unique to Vietnam called the Vietnam Educational Foundation, which is focused on scientific training. The combined budgets of the Fulbright Program and the Vietnam Education Foundation total nearly $10 million per year—more than the U.S. contributes towards higher education in any other country in the world.

In our burgeoning economic relationship, the Bilateral Trade Agreement—the (BTA)—is a key foundation and presents enormous opportunities for expanded cooperation. This agreement binds Vietnam to an unprecedented array of reform commitments in its legal and regulatory structure and has become an important catalyst for change. The BTA eliminates non-tariff barriers, cuts tariffs on a number of U.S. exports and gives Vietnam MFN access to the U.S. market. It also provides for effective protection and enforcement of intellectual property rights, opens Vietnam's market to U.S. service providers, and creates fair and transparent rules and regulations for U.S. investors.

Vietnam is lagging behind in some of its BTA commitments and enforcement remains weak, but the country has made progress in opening its markets to many U.S. products, such as aircraft, machinery and cotton. Unfortunately, its market still remains relatively closed to U.S. intellectual property industry products despite some progress in revising legislation related to intellectual property rights.

The BTA has had a significant impact on our bilateral trade, which has grown sharply in the first two years. In 2003, two-way trade soared again by over 100%, reaching an estimated $6 billion. As a result of our tariff reductions, Vietnam's exports to the U.S. have risen by about 125% each in the first two years, while our exports to Vietnam, boosted by the sale of some Boeing aircraft, have also risen markedly. Vietnam's official figures on U.S. investment in Vietnam has also risen to a current total of just over $1 billion, but this seriously understates the true figure. This data does not include investments by U.S. subsidiaries in Singapore and elsewhere in the region, such as nearly over $800 million by Conoco-Phillips alone.

Our deepening economic, commercial, and assistance relationship with Vietnam promotes civil society, encourages economic reform, draws the country further into the rules-based international trading system, and promotes interests of American workers, consumers, farmers, and business people.

We strongly support Vietnam's decision to adopt WTO provisions as the basis for its trade regime. The Vietnamese government must now demonstrate that it is prepared to undertake the commitments that are necessary to become a WTO member. Vietnam's implementation of a rules-based trading system based on WTO principles of transparency and its continued pursuit of structural economic reforms should accelerate the development of the private sector, enhance the rule of law, and improve the atmosphere for progress in democracy and human rights.

So, let me conclude my comments on the past and the present with a word about the future. Vietnam today is a dynamic, rapidly developing economy, an increasingly popular tourist destination, and an attractive site for foreign investment. I expect that Vietnam will continue its journey towards a

more efficient economy with greater individual freedom and that today's children will be better off than their parents. And I hope—and fully expect—that U.S.-Vietnam relations will continue to broaden and deepen mutual understanding to the benefit of both of our nations.

RAYMOND F. BURGHARDT,
*Ambassador, Asia Society, Hong Kong Center.*

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THE AMERICAN CHAMBER OF COMMERCE,
*Hanoi, Vietnam, July 14, 2004.*

Hon. ROB SIMMONS,
*Member, House International Relations Committee, Washington, DC.*

DEAR REPRESENTATIVE SIMMONS: On behalf of the membership of the American Chamber of Commerce in Hanoi, I express our regards to you and your colleagues in the Congress.

As members of the American business and development community, we strongly believe that positive engagement is the way to move the U.S. bilateral relationship with Vietnam forward. Therefore, we feel compelled to bring to your attention the Vietnam Human Rights Act (H.R. 1587) sponsored by Representative Chris Smith that will be voted on today.

The sanctions-based approach of H.R. 1587 to improving the situation in Vietnam is counter-productive and will not result in constructive dialogue or action. Much of the aid funds that would be cut go directly to legal reform programs that strengthen due process and basic legal rights. In fact, Vietnam continues to make progress on human rights issues, and while we agree there is room for further improvement, we do not feel this amendment will effect positive change. Furthermore, it is unclear whether the imposition of unilateral sanctions would lead to improved conditions for those vulnerable to human rights abuses in Vietnam. In fact, it could have the opposite effect by drawing increased attention to those groups and individuals.

The restrictions outlined in the bill would also limit U.S. ability to assist the Vietnamese with implementation of structural and legal reforms called for in the Bilateral Trade Agreement (BTA). The BTA, which addresses issues relating to trade in goods and farm products, trade in services, intellectual property rights and foreign investment, creates more open market access, greater transparency and lower tariffs for U.S. exporters and investors in Vietnam. U.S. business views Vietnam, the thirteenth most populous country in the world with over 80 million people, as an important potential market for U.S. exports and investment. Increased U.S. exports to and investment in Vietnam that result from progress towards an open, market-oriented economy, in turn, translate into increased jobs for American workers.

The reforms currently underway will move Vietnam towards better rule of law. Delays in BTA implementation and economic reform will damage American business interests in Vietnam by reversing growth in bilateral trade since the BTA's entry into force in December 2001.

U.S. Government policy since the establishment of diplomatic relations in 1995 has been to work with Vietnam to normalize incrementally our bilateral political, economic and consular relationship. This positive approach builds on Vietnam's own policy of political and economic reintegration in the world. U.S. engagement will promote the development of a prosperous Vietnam integrated into world markets and regional organizations that, in turn, will contribute to regional stability. With every new step, the United States has taken with respect to Vietnam, such as ending the trade embargo in 1994, normalizing diplomatic relations in 1995, appointing our first ambassador in 1997, issuing the first Jackson-Vanik waiver in 1998, and entering into the BTA in 2001, Vietnam has responded by opening further its society and economy. In fact, even military to military relations have resumed and an American Navy ship will be visiting Danang later this month.

Many in the American NGO community in Vietnam are also opposed to this bill for the same reasons. They strongly believe that increased contact with the outside world and positive engagement are better ways to promote progress on human rights and development issues. The NGO community strongly endorses recent constructive steps taken by the U.S. government to promote human development in Vietnam, such as opening the USAID office, approving Department of Agriculture commodity monetization programs, and providing OFDA assistance to Vietnam during natural disasters. These and other positive steps will do far more to promote civil society and improve human rights than the Smith bill. Furthermore, passage of H.R. 1587 could jeopardize the ability of American NGOs to implement their programs in Vietnam by creating suspicion that they are monitoring human rights on behalf of the U.S. Government, which would likely create restrictions of their humanitarian work here.

Accordingly, on behalf of the growing US business and development community in Vietnam, we appeal for your understanding and action in continuing the good work that you have already done to move the bilateral relationship forward. AmCham Hanoi urges you to prevent this damaging bill from becoming law.

With appreciation, in advance, for your consideration, I remain

Respectfully yours,
TERENCE ANDERSON,
*Chairman.*

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[From the National Catholic Reporter, June 4, 2004]

PROGRAM AIMS TO FOSTER U.S.-VIETNAM CATHOLIC TIES

(By Thomas C. Fox)

Vietnamese ministers from the Ho Chi Minh City archdiocese will come to Boston College in the fall for training as part of an extensive program aimed at fostering cultural ties between the United States and Vietnam. The program also will eventually meet some pressing pastoral needs in Vietnam.

The new program, to last at least a decade, is significant because it has the blessing of government officials in Vietnam, where once strained church-state relations have warmed in recent years.

With the church in Vietnam slowly emerging from many years of isolation and government hostility, the Ho Chi Minh archdiocese-Boston College ''partnership,'' as it is being called, is a hopeful sign that Vietnamese Catholics will be allowed by the government to play a greater role in providing social services.

Cardinal Jean-Baptiste Pham Minh Man, archbishop of Ho Chi Minh City since 1998, supports the program, maintaining that his church's number one challenge today is training pastoral ministers.

The initial phase of the program calls for two women religious, Daughters of Charity, to study health care ministries while two priests will study various parish related ministries. All will earn master's degrees.

Since 1975, when the war ended, the communist-led government seized church properties, closed Catholic hospitals and schools, limited ordinations and scrutinized most aspects of church life. During the 1990s, Hanoi slowly loosened its grip on society, opening Vietnam to foreign investments and visitors. Restrictions on Catholic life also loosened. Catholic nuns, for example, were allowed to run day care centers and to be more involved in providing health care.

With the 1998 appointment of Man, cooperation between the church and government grew. Man is viewed as a moderate with deep pastoral instincts. He believes the church in Vietnam has much to gain by working in tandem with the government, providing much-needed social services.

In 1996 Washington and Hanoi officially established diplomatic relations.

As openings for Vietnamese Catholics gained ground in the mid-1990s, Jesuit Fr. Julio Giulietti, then director at Georgetown University's Center for Intercultural Education and Development, began building bridges between Vietnamese Catholics and those in the outside world. He began working with Vietnamese Jesuits and developing other church contacts. His efforts took him back to Vietnam 18 times since 1994.

Now head of the Ignatian Institute at Boston College, Giulietti's passion is to bring Western Catholics into contact with those in developing nations.

It was during a visit in March 2003 that Giulietti and Man first began to talk about their proposed partnership. Those discussions in Ho Chi Minh City led to Giulietti's extending an invitation to Man in July 2003 to visit Boston College the following November.

Just weeks before he visited, Man was named a cardinal by Pope John Paul II, an indication of the key role he plays in the Vietnamese church.

Some 8 percent of Vietnam's estimated 70 million people are Catholic. Half of these Catholics reside in the Ho Chi Minh City archdiocese.

One evening last year at his residence, Man told NCR in an interview about the complexities of leading a church in a communist nation. The key to effective evangelization, he said, involves developing clergy, religious and laity to become skilled pastoral ministers. He said that new opportunities are opening for Catholic involvement in nation building. Becoming involved in these areas, he said, the church can show government authorities it is not a threat, but a potential partner.

In an important indicator of better church-state relations, Ho Chi Minh City officials last year returned a piece of property to the archdiocese that had once housed a seminary. Man hopes this property might one day become a pastoral ministry center.

With two to four Vietnamese ministry students coming to Boston College each year for the next decade, the partners hope that a core group of Vietnamese ministers will learn modern skills in pastoral care.

Giulietti emphasized the word ''partnership.'' The initial needs all come from Man, he said. But the program will go two days. While Vietnamese will learn skills in the United States they cannot learn in Vietnam, they will also share their culture and ideas on church with students and faculty at Boston College.

According to Giulietti, half the funding will come from Boston College. The other half will have to come from outside sources. He said he is hopeful U.S. Catholics will respond, recognizing the importance of building effective ties among Catholics while doing something positive for the church in Vietnam. Giulietti is treasurer of the NCR board of directors.

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent,

along with my friends on the other side of the aisle, because we have so many speakers, that we extend the debate 10 minutes equally divided on both sides.

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

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself 2 minutes to respond to my good friend from Connecticut that friends do not let friends commit human rights abuses.

Whatever present relationship we might have with Vietnam, when they are torturing and killing and maiming and forcing people to renounce their faith, these are egregious human rights abuses, and they should not be put under the rug and somehow brushed aside. We need to speak out against those abuses, and we need to do it forcefully.

Let me also say to my colleagues that the American Legion supports this bill wholeheartedly, and I will provide their letter for submission into the RECORD.

Mr. Speaker, the AID's funding announced by Ambassador Tobias and the President just a few days ago is totally exempt, as is all medicine, foodstuffs, and humanitarian aid. None of that can be used as a penalty in terms of its provision to the people of Vietnam. We are talking about nonhumanitarian aid. We are talking about capping it at the 2004 levels.

As I said in my opening, it is a very modest effort to say that we do not want this to go on anymore, to stop this abuse; and we have proven through the trafficking legislation and other legislation recently that modest smart penalties or sanctions do work. They do get the attention of offending governments.

Our solidarity is with the oppressed in Vietnam. It is not with the oppressor. We want to see progress. I want to stand on this floor, as does the gentleman from California (Mr. LANTOS) and others, and sing the praises of the government, but we need to see progress. We are seeing significant deterioration with regard to human rights abuses.

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

Mr. EVANS. Mr. Speaker, I yield 4 minutes to the gentleman from Arizona (Mr. KOLBE), the chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs.

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

I have been listening with interest to what I think is a very spirited and good debate that we have had, but I do rise in opposition to H.R. 1587, the Viet Nam Human Rights Act of 2003.

At this point, I wish to congratulate my colleague, the gentleman from New Jersey, for the passion which he comes to the floor with and in which he expresses his views here. I know he holds these views very dearly and with great sincerity, and I do understand and respect the motivation for supporting human rights in Vietnam and other countries around the world. It is critically important we serve as a champion of human rights, just as we are in the case of Sudan, where tomorrow evening I and the gentleman from Illinois (Mr. JACKSON) will go in an effort to try to take a look and to bring the attention of the world to the human rights violations which are taking place there today.

However, I would point out that, even as we act as a champion of human rights around the world, that does not provide us carte blanche to undertake bad policy. In 1995, we embarked on a new path with Vietnam. Many opposed that at the time. I supported it. I thought it was the right thing to do. We chose to take a direction towards better political, economic, and consular relations.

In making that decision, we recognized the need to encourage the development of Vietnam as a prosperous country and to encourage Vietnam to move on a path towards greater protection of human rights. We understood how important it was to integrate our former adversary into Asia's economic progress and ultimately into the global community.

Since we have started down that path, I think we have reaped important benefits. It secured Vietnam's cooperation on achieving the fullest possible accounting of the POW/MIAs from the Vietnam War era. It has helped to contribute to regional stability in Southeast Asia, and it has helped to open a new market for U.S. workers to the world's 13th most populous country.

Certainly the United States-Vietnam foreign policy relationship is one that still has many rocky moments to it. It is one that is still maturing. In some areas, we are certainly disappointed with the progress or lack of progress that the Vietnam government has made. I share the concerns about the human rights record, but I think this bill may actually retard our efforts in this regard, rather than accelerate them or help them.

While the House has passed this bill, or legislation similar to it, it has not passed the other body before; and just because it has passed the House before does not mean it is the right thing to do here today. The relationship has changed. It has changed in a way where passage and enactment of this bill could be harmful to the relationship of our two countries.

The bill's unprecedented definition of nonhumanitarian assistance is problematic in many ways, in ways that I am cognizant of as chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs. For example, it would purport to reach some aspects of assistance provided under the President's Emergency Plan for Aids Relief. Vietnam, as I think my colleagues know, was recently designated as the 15th focus country under the President's plan, the only one outside of the Caribbean and of Africa.

Generally, I think this human rights act is a blunt instrument. I believe it will risk inhibiting progress in bilateral trade and affect cooperation on issues of importance to the United States, issues that are vitally important to us right now, counterterrorism, the POW–MIA accounting, which is ongoing, and HIV/AIDS; and I do not mean just the actual process of providing drugs but the technical assistance that could be affected by this. Also counternarcotics, which is vitally important for us, and refugee processing and resettlement.

I know there is a waiver authority in this bill, but to use that as an argument is simply to say that the bill has no meaning, so I do not think the sponsors really intend that to be the case.

In short, I think the imposition of unilateral sanctions is not going to lead to an improved human rights record and might actually harm the United States' efforts in our fight against HIV/AIDS, which is accelerating very rapidly in Vietnam.

I urge my colleagues to vote ''no'' on this legislation.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 2 minutes to my friend and colleague, the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I thank my colleague, the gentleman from New Jersey, for yielding me this time and for putting forward H.R. 1587, of which I am in full support, the Viet Nam Human Rights Act.

I know a number of my colleagues oppose this bill, so I would like to reiterate why it is so important to pass this bill today.

First of all, we passed a very similar piece of legislation by a vote of 410 to 1 back in 2001. Unfortunately, the Senate did not take that up; and so the law was not enacted. But, since that time, one would think that our relationship would have gotten stronger with Vietnam; and in many ways it has.

The problem is that there are still very bad human rights abuses by the government of Vietnam against its own people. In fact, things have gotten worse.

Religious dissidents continue to be imprisoned, and crackdowns have been intensified on religious minorities. The leaders of the Unified Buddhist Church of Vietnam remain under house arrest 9 months after this House overwhelmingly passed House Resolution 427 commending the church's courageous leadership.

We have passed a resolution on Father Ly, a Catholic priest who has been arrested and convicted, all for following religious freedom, something that our own country is based on.

And freedom of the press? There is no freedom of the press in Vietnam. Everything is owned by the State.

When I talked to the cardinal of the Catholic church, he said he is not even allowed to pass out a newsletter in his church on Sunday because that is press, according to the government of Vietnam.

There is no religious freedom. There is no freedom of the press. People are arrested. I have gone twice now to Vietnam, and they are arrested and put in jail for no reason. I think it is about time that we support this bill and we pass it in this House.

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

Mr. SMITH of New Jersey. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROYCE), the distinguished chairman of the Subcommittee on Africa of the Committee on International Relations.

Mr. ROYCE. Mr. Speaker, I rise in strong support of the Viet Nam Human Rights Act, of which I am pleased to have joined the gentleman from New Jersey (Mr. SMITH) in introducing.

I have had the opportunity in Vietnam to sit down with some of the religious dissidents, some of the religious leaders under house arrest for speaking out about religious freedom, and I wanted to share with this body that Freedom House has consistently done an analysis every year on Vietnam and ranked that country ''not free,'' because people there cannot practice religious liberty; and efforts by this House to promote human rights in Vietnam have been blocked.

Meanwhile, I will just give this assessment by Freedom House, the most recent. ''The regime jails or harasses most dissidents, controls all media, sharply restricts religious freedom, and prevents Vietnamese from setting up independent political or independent labor or independent religious groups.''

My colleagues today have pointed out some horrific abuses against those who are simply attempting to practice their religion as they choose, but I want to point out that this regime is also one of the world's worst violators of press and Internet freedom. Prominent nongovernmental organizations have condemned the government of Vietnam's attempt to silence cyberdissidents and stifle freedom of the Internet.

I think the severity of some of these jail terms handed down, last year, we had Dr. Nguyen Dan Que, one of Vietnam's best-known dissidents, who was arrested for sending an email entitled ''Communique on Freedom of Information in Vietnam.'' It was simply an analysis of the government's refusal to implement and lift controls on the media.

I will just take one line out of this analysis that he put forward. He said, ''The State hopes to cling to power by brainwashing the Vietnamese people through stringent censorship and through its absolutist control over what information the public can receive.''

Now, we have a way here, with this bill, with this legislation, to beef up Radio Free Asia and bring information, bring objective news and truth to the Vietnamese people in a more effective way. I think the spread of democratic values in Asia is critical to U.S. security interests, and I think Radio Free Asia is a large step forward in the right direction. We know these broadcasts are effective. How do we know? Because the Vietnamese government spends so much of their energy trying to block these broadcasts.

So I agree we have a growing relationship with Vietnam. I do not take issue with that. I supported the Bilateral Trade Agreement. But this does not mean the United States should stand moot while grievous human rights abuses occur. So I urge my colleagues to send this legislation to the other body with a strong vote.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. MARIO DIAZ-BALART).

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I just heard from many of those who are against this legislation that things have gotten better in Vietnam, things are not great but have gotten better.

Coincidentally, today there is a story by Reuters talking about how a 73-year-old man is in prison because he used the Internet to criticize the government of Vietnam. Whoa, things are getting real good over there.

Another person was arrested and sentenced just last week for using the Internet. And what was that horrible crime? Oh, geez, for being critical about corruption in Vietnam and advocating for democratic reforms.

□ 1945

Things are getting better in Vietnam.

No, they are not. They have gotten worse. We can no longer just turn away and pretend things are not happening to the oppressed people of Vietnam. I want to commend the gentleman from New Jersey for once again standing up for the oppressed, standing up for those people who are just trying to speak out a little bit, just a little bit, about the atrocities that are going on around the world, in this case in Vietnam. I thank him for doing this, for standing up for the oppressed, for those that would love just a little bit of freedom. We need to speak up for them as well. I support this.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself the balance of my time. Let me thank the gentleman from Florida (Mr. MARIO DIAZ-BALART) and all of the speakers, my good friend from California (Mr. LANTOS) and all of those whom I think made very, very important points about why this bill ought to become law.

Let me just take a moment to speak on behalf of one of Vietnam's most courageous and renowned democracy activists, Dr. Que. Dr. Que has served two lengthy prison sentences and was arrested again for promoting democracy and human rights last year. He has been held incommunicado ever since, unable to see even his family. The Vietnamese government plans to put Dr. Que on trial next Monday. We do not know exactly what the charges are, and it appears that Dr. Que will be tried in secret without access to a lawyer. Unfortunately, this is par for the course for the government of Vietnam because they treat so many dissidents this way. The government of Vietnam should release Dr. Que, a peaceful man whose only crime is to speak out for freedom. Any adverse action against Dr. Que will only make our point as they have made our point regrettably over and over again.

Let me just say one brief point about the POW/MIA issue because I take a back seat to no one in my concerns for a full and thorough accounting about our POWs. As a matter of fact, my first human rights trip to Asia was to Vietnam in the early 1980s on behalf of POWs and MIAs trying to follow up on what we thought were live sightings and also to get a full and thorough accounting. But I would point out that Jerry Jennings, who was mentioned by my good friend from Connecticut, the Deputy Assistant Secretary of Defense for POW/MIA Affairs, has pointed out most recently that this is a mutual humanitarian effort between Vietnam and the United States; and, as he pointed out, the United States for its part has turned over hundreds of documents from U.S. national archives containing information about Vietnamese soldiers who died during the war.

It is to our mutual advantage to cooperate on that issue. I believe it is to the advantage of the people of Vietnam that this effort go forward with regards to the AIDS funding which is explicitly exempted by this legislation, as is other humanitarian aid as recounted in the bill.

This is all about human rights. This is about helping dissidents who are languishing in prisons. This is about religious believers who get that knock in the middle of the night and they are told, sorry, you are going to the gulag, where they are beaten, where they are repressed and where their families sometimes never hear from them again. These are modest, modest penalties; but we want to send a clear and unambiguous message to the government of Vietnam that human rights matter, they are important to us, they ought to be important to them.

I urge support. There are 35 cosponsors of this legislation equally divided between both sides of the aisle. It is truly a bipartisan piece of legislation. I urge support.

Mr. SMITH of New Jersey. Mr. Speaker, I submit the following letter for the RECORD.

THE AMERICAN LEGION,
*Washington, DC, July 14, 2004.*

Hon. CHRISTOPHER H. SMITH,
*Rayburn House Office Building,*
*Washington, DC.*

DEAR REPRESENTATIVE SMITH: The American Legion applauds your continuing leadership in fighting for the rights of the abused

minorities in Vietnam. The United States must maintain constant pressure on the Vietnamese government to honor the rights of its citizens and our former allies. The Legion stands in strong support of the Vietnam Human Rights Act of 2004.

The American Legion has grave concerns about the plight of ethnic groups such as the Montagnards, as well as religious minorities, including Buddhists and Catholics who are under constant attack and persecution by Vietnamese authorities for practicing their religion. The American Legion strongly believes that successful passage of the Vietnam Human Rights Act of 2004 will greatly benefit the future of minority ethnic and religious populations in Vietnam. If the U.S. does not have the tools that would be available through the Vietnam Human Rights Act, we will lose the only remaining leverage we have in persuading the Vietnamese to change their egregious behavior.

As a nation at war, I think it is important that America's allies know they serve beside a committed, loyal partner—one that will not desert or betray them in their time of need. Simply ignoring the current violations of human rights is not an acceptable option for The American Legion's membership of wartime veterans, many who served in Vietnam side-by-side with these current victims of tyranny.

Sincerely,

JOHN F. SOMMER, Jr.,
*Executive Director*.

Mr. WOLF. Mr. Speaker, I strongly support H.R. 1587, The Vietnam Human Rights Act of 2004 and commend Representative CHRIS SMITH for his leadership on this issue. In 2001, the House of Representatives passed a similar bill, but unfortunately the human rights situation in Vietnam continues to get worse.

The United States will soon ratify the U.S.-Vietnam bilateral trade agreement. We must send a strong message that trade with the United States should come with a responsibility to uphold basic human rights.

The Government of Vietnam continues to commit serious abuses in violation of the Universal Declaration of Human Rights. It continues to jail writers, scientists, journalists, and religious leaders.

This year's State Department human rights countries report on Vietnam is 24 pages long and cites numerous violations including:

The Government of Vietnam's human rights record remained poor, and it continued to commit serious abuses. The government continues to deny the right of citizens to change their government . . . The government significantly restricted freedom of speech, freedom of the press, freedom of assembly, and freedom of association . . .

The government did not permit human rights organizations to form or operate. Violence and societal discrimination against women remained a problem. Child prostitution was a problem.

I am very concerned that religious activity is extremely restricted in Vietnam and reports that over 400 Christian churches in the Central Highlands have been forcibly closed. Imprisonment and harassment of Protestants and Catholics continue and many religious leaders are under house arrest. Many Christians have been forced to renounce their faith.

I also remain extremely concerned about the recent crackdown against Montagnard ethnic minorities in Vietnam, many of whom are Christians. Thousands of Montagnards who gathered to protest ongoing religious repression and confiscation of tribal lands last Easter were met with brutal force by Vietnamese agents and security forces.

Three years ago, Father Thaddeus Nguyen Ly, a Catholic priest, submitted testimony to the U.S. Commission on International Religious Freedom. On October 21, 2001, Father Ly was sentenced to 15 years in prison by the Vietnam government. Father Ly has done nothing more than call for religious freedom in Vietnam.

The U.S. House has repeatedly called for Father Ly's release and expressed growing concern about the poor human rights record of the Government of Vietnam. We have been met by silence from the Government of Vietnam.

I continue to ask the State Department to designate Vietnam as a "country of particular concern" (CPC) for its systematic and ongoing religious freedom abuses. The Commission on International and Religious Freedom recommended Vietnam be listed as a CPC last year. This latest incident in the Central Highlands, along with the Vietnamese government's relentless repression of ethnic minority religious groups, clearly supports the need for CPC this year. It is my hope that the State Department will act this year.

I support the Vietnam Human Rights Act. Hanoi must begin to make significant progress toward releasing political and religious prisoners and respecting human rights of all minorities. In closing, we in the United States must continue to speak out for the innocent wherever they are. This is our duty. Those suffering persecution are encouraged when the United States speaks out on their behalf.

Ridding the world of repressive dictators will take time, patience and persistence, and we must press on toward the goal of freedom for all people. We, as a country, and we, as individuals, must have the courage to take on tough issues. Human rights are God-given rights. We should not accept anything less.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today in support of H.R. 1587, which requires the administration to carefully monitor the status of human rights in Vietnam.

Under this measure, if Vietnam fails to meet basic standards for universally recognized human rights, the President will have the authority to cap U.S. non-humanitarian aid to Vietnam.

The truth is that many of my colleagues may not be aware of the extensive struggle which the Vietnamese people have endured for many years in their ongoing fight for basic human rights and freedom.

Ten years ago, the United States ended its trade embargo with Vietnam and normalized relations with Hanoi. While the U.S. continues to open diplomatic relations with Vietnam, we must remember that many issues remain unresolved, including human rights violations, lack of religious freedom, and government corruption.

In 2001, the House passed a similar bill overwhelmingly by 410–1 to send a clear message to the communist leadership in Vietnam that U.S. trading with Vietnam does not mean approval of its repressive policies.

Unfortunately, this bill died in the Senate.

Since then, despite having the benefits of trade with the U.S., the Vietnamese government has escalated its abuses of human rights and crackdown on religious freedom.

I traveled to Vietnam in 1998 to learn about these issues first-hand, as well as to raise these concerns with high-level officials. In addition, the large Vietnamese-American community in the 11th district, which I represent, continues to update me on continuing concerns.

As a member of the Vietnam Caucus, I am dedicated to promoting awareness and policy debates among the U.S. Congress, the American public, and the international community about the greater need for fundamental human rights in the Socialist Republic of Vietnam.

While many have chosen to take part in a non-violent struggle for basic freedom and human rights, the Vietnamese communist government has chosen to arrest and imprison the vast majority of them.

The gratuitous arrests of these men and women demonstrate the ongoing human rights abuses and lack of religious freedom in Vietnam. We must continue to bring attention to these issues, generate pressure on Vietnamese officials, and hold the Vietnamese government accountable.

It is only through the hard work of these courageous individuals and the support of the international community in which we can work to bring an end to human rights abuses and religious persecution in Vietnam.

I am hopeful H.R. 1587 will serve as a small stepping stone towards the ultimate liberation and freedom of the Vietnamese people.

However, at the least, I believe it will bring much needed additional awareness to the atrocities committed by the Socialist Republic of Vietnam every day, on its own citizens.

I commend my good friend from New Jersey and the other sponsors for bringing this bill to the floor, and I urge my colleagues to join me in the passage of this important resolution.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise in strong support of this bill. Having spent nearly seven years in Vietnam as a prisoner of war, I have more than a passing interest in our relations with this country. The simple fact is that we're dealing with a communist government whose human rights record is abhorrent at best.

As you know, during the Vietnam war the indigenous Montagnard people were strong allies of America. Now, in the central highlands of Vietnam, the Montagnards are facing arrest, beatings, torture and even murder at the hands of Vietnamese so called security forces.

Churches have been destroyed and over the past 2 years human rights watch has documented numerous incidents where authorities conduct mass ceremonies forcing Montagnards to renounce Christianity, sometimes while drinking sacrificed animal's blood.

Today in Vietnam the Montagnard's ancestral homelands are currently sealed off from international observers as secret police enforce a campaign to crush the spread of Christianity.

Amnesty International has documented hundreds of political prisoners and even killings of Montagnard refugees who have tried fleeing to Cambodia.

In fact, the Vietnamese/Cambodian border is patrolled by soldiers, where Cambodian authorities hunt down and "sell" refugees to Vietnamese police for bounties. This sounds like something we would read about in history books, not in the year 2004.

This Congress cannot idly stand by. Civilized nations do not deal with barbarians. We must ensure that our aid isn't going to the communist thugs in Hanoi. Support this bill.

Mr. HYDE. Mr. Speaker, I submit an exchange of letters between Mr. SENSENBRENNER, the chairman of the Committee on

the Judiciary, and myself on the bill H.R. 1587 for printing in the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
*Washington, DC, July 13, 2004.*

HON. F. JAMES SENSENBRENNER, JR.,
*Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter on H.R. 1587, the 'Viet Nam Human Rights Act of 2003,'' which was referred primarily to the Committee on International Relations and additionally to the Committee on Financial Services. This Committee ordered the bill reported favorably on June 24, 2004.

I concur that the Committee on the Judiciary has jurisdiction over §401 of the bill pertaining to the resettlement of refugees from Viet Nam. The manager's amendment which the Committee will call up does not include §401 or any other provision that fall within the Rule X jurisdiction of the Committee on the Judiciary.

I appreciate your willingness to waive further consideration of the bill in the Committee on the Judiciary so that the bill may proceed expeditiously to the floor. I concur, that in taking this action, your Committee's jurisdiction over the bill is in no way diminished or altered. I will, as you request, include this exchange of letters in the CONGRESSIONAL RECORD during consideration of the legislation on the House floor.

I appreciate your cooperation in this manner.

Sincerely,

HENRY J. HYDE,
*Chairman.*

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HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, July 13, 2004.*

Hon. HENRY HYDE,
*Chairman, Committee on International Relations, House of Representatives, Washington, DC.*

DEAR CHAIRMAN HYDE: I am writing regarding H.R. 1587, the ''Viet Nam Human Rights Act of 2003'' which was referred primarily to the Committee on International Relations and additionally to the Committee on Financial Services. The Committee on International Relations ordered the bill reported favorably on June 24, 2004, but as of this time has not filed a report.

The Committee on the Judiciary has jurisdiction over §401 of the bill pertaining to the resettlement of refugees from Viet Nam. I understand that you have indicated your willingness to take the bill to the floor under suspension of the rules with a manager's amendment that does not include §401 or any other provisions that fall within the Rule X jurisdiction of the Committee on the Judiciary.

Based on your willingness to follow this course, I am willing to waive further consideration of the bill in the Committee on the Judiciary so that the bill may proceed expeditiously to the floor. The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over the bill is in no way diminished or altered. I would appreciate your including this letter and your response in the Congressional Record during consideration of the legislation on the House floor.

I appreciate your cooperation in this matter.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
*Chairman.*

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

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida.) The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 1587, as amended.

The question was taken.

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

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

The yeas and nays were ordered.

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

## CONCERNING THE IMPORTANCE OF THE DISTRIBUTION OF FOOD IN SCHOOLS TO HUNGRY OR MALNOURISHED CHILDREN AROUND THE WORLD

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 114) concerning the importance of the distribution of food in schools to hungry or malnourished children around the world.

The Clerk read as follows:

S. CON. RES. 114

Whereas there are more than 300,000,000 chronically hungry and malnourished children in the world;

Whereas more than half of these children go to school on an empty stomach, and almost as many do not attend school at all, but might if food were available;

Whereas the distribution of food in schools is one of the simplest and most effective strategies to fight hunger and malnourishment among children;

Whereas when school meals are offered to hungry or malnourished children, attendance rates increase significantly, particularly for girls;

Whereas the distribution of food in schools encourages better school attendance, thereby improving literacy rates and fighting poverty;

Whereas improvement in the education of girls is one of the most important factors in reducing child malnutrition in developing countries;

Whereas girls who attend schools tend to marry later in life and have fewer children, thereby helping them escape a life of poverty;

Whereas by improving literacy rates and increasing job opportunities, education addresses several of the root causes of terrorism;

Whereas the distribution of food in schools increases attendance of children who might otherwise be susceptible to recruitment by groups that offer them food in return for their attendance at extremist schools or participation in terrorist training camps;

Whereas the Global Food for Education Initiative pilot program, established in 2001, donated surplus United States agricultural commodities to the United Nations World Food Program and other recipients for distribution to nearly 7,000,000 hungry and malnourished children in 38 countries;

Whereas a recent Department of Agriculture evaluation found that the pilot program created measurable improvements in school attendance (particularly for girls), increased local employment and economic activity, produced greater involvement in local infrastructure and community improvement projects, and increased participation by parents in the schools and in the education of their children;

Whereas the Farm Security and Rural Investment Act of 2002 (Public Law 107–171, 116 Stat. 134) replaced the pilot program with the McGovern–Dole International Food for Education and Child Nutrition Program, which was named after former Senators George McGovern and Robert Dole for their distinguished work to eradicate hunger and poverty around the world; and

Whereas the McGovern–Dole International Food for Education and Child Nutrition Program provides food to nearly 2,000,000 hungry or malnourished children in 21 countries: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress—

(1) expresses its grave concern about the continuing problem of hunger and the desperate need to feed hungry and malnourished children around the world;

(2) recognizes that the global distribution of food in schools to children around the world increases attendance, particularly for girls, improves literacy rates, and increases job opportunities, thereby helping to fight poverty;

(3) recognizes that education of children around the world addresses several of the root causes of international terrorism;

(4) recognizes that the world will be safer and more promising for children as a result of better school attendance;

(5) expresses its gratitude to former Senators George McGovern and Robert Dole for supporting the distribution of food in schools around the world to children and for working to eradicate hunger and poverty around the world;

(6) commends the Department of Agriculture, the Agency for International Development, the Department of State, the United Nations World Food Program, private voluntary organizations, non-governmental organizations, and cooperatives for facilitating the distribution of food in schools around the world;

(7) expresses its continued support for the distribution of food in schools around the world;

(8) supports expansion of the McGovern–Dole International Food for Education and Child Nutrition Program; and

(9) requests the President to work with the United Nations and its member states to expand international contributions for the distribution of food in schools around the world.

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

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

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the Senate concurrent resolution under consideration.

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

There was no objection.

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

may consume and rise in strong support of S. Con. Res. 114, which is an expression of support for the McGovern-Dole International Food For Education Program. The companion House version of this resolution was introduced by the distinguished gentleman from Massachusetts. By taking up the companion Senate version of the resolution, we will be able to complete congressional action on it.

300 million children around the world suffer from chronic hunger and malnourishment, and this program was founded on the premise that one of the most effective ways to combat child hunger could at the same time serve to increase literacy and to promote international stability. The program consists of a simple measure of supplying schools in areas suffering from food shortages with meals for their students. It has been shown that this measure, in addition to providing much-needed nourishment for hungry children, also results in a significant rise in attendance rates. This translates into higher literacy rates, job opportunities, and a healthier local economy as these children enter the workforce. These improvements, in turn, address several of the root causes of terrorism which is strongly linked to poverty and poor education.

Since its inception, the McGovern-Dole program has donated surplus agricultural commodities to the U.N. World Food Program, feeding nearly 7 million children from 38 countries. I urge the Congress to pass this concurrent resolution as an expression of support for this admirable endeavor. This resolution does not involve any allocation of funds, but does serve to recognize the accomplishments of the program, accomplishments again which have aided some 7 million children with much-needed meals and have aided the world by promoting education and stability. We express our support. I hope that the membership will support it.

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

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume. I rise in strong support of this legislation, and I urge all of my colleagues to do so as well.

More than 150 million poor children stumble to school every day because their stomachs are empty and their eyes are blurry from hunger. Oftentimes what separates these kids from academic achievement is as simple as a full, healthy meal.

Mr. Speaker, it is gratifying to note that our good friend and colleague from Massachusetts (Mr. MCGOVERN) has strived to ensure that our collective attention remains on these struggling, impoverished children.

The George McGovern-Robert Dole International Food For Education and Child Nutrition Program is one of the great success stories in our foreign aid framework. The McGovern-Dole International Food For Education and Child Nutrition Program is properly named after Ambassador and former Senator George McGovern and former Senator Bob Dole. Both of these highly respected statesmen worked tirelessly on world hunger issues for many years, culminating in the launching of a pilot program, the Global Food For Education Initiative in 2001.

The Global Food For Education Initiative was groundbreaking in that it systematically addressed the problem of young students with empty stomachs in developing countries. By distributing surplus agricultural commodities from our country to some 7 million hungry and malnourished children in 38 countries, the Global Food Initiative was largely responsible for improving school attendance rates, raising literacy rates, and fighting poverty, particularly among young girls, in the schools which received assistance under the program.

Mr. Speaker, the McGovern-Dole program is now permanent, but it alone cannot end world hunger; nor can it dramatically alter the performance of educational systems in developing countries. The program can, however, play a crucial role in helping our Nation meet its moral obligation to alleviate human suffering in places like sub-Saharan Africa, the Caribbean, the Middle East, and South Asia while at the same time helping to support tens of thousands of American farm families. The McGovern-Dole program can also put spoons and textbooks into the hands of poor children in the most destitute corners of the globe so that these children will be less likely to grow up, take up arms, and fight over scarce resources.

Mr. Speaker, let me conclude by suggesting that the McGovern-Dole program epitomizes the true American spirit and the values which we hold so dear. Through this program, we are able to take the bounty of our land and share it with the needy and the hungry across the globe. At the same time we are able to help sustain family farms here at home. It is no wonder that the program enjoys such enormous support across the country.

I strongly support passage of this legislation, which our esteemed colleagues in the other Chamber have already passed. I urge all of my colleagues to do so as well.

Mr. Speaker, I am delighted to yield such time as he may consume to the gentleman from Massachusetts (Mr. MCGOVERN), the distinguished sponsor of this legislation.

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

Mr. MCGOVERN. Mr. Speaker, I want to thank the distinguished gentleman from California, the ranking member of the Committee on International Relations, for yielding me the time and for his very heartfelt words. I also want to thank the chairman of the committee, Chairman HYDE, as well as Ranking Member LANTOS, for their leadership and their commitment to ending hunger and for their support of U.S. food aid programs. I also want to extend my gratitude to Chairman SMITH and to my colleague from Ohio (Ms. KAPTUR), who is the ranking Democrat on the agricultural appropriations committee, for all of their incredible efforts to combat hunger here in the United States and around the world. It was through their bipartisan leadership that the George McGovern-Robert Dole International Food For Education and Child Nutrition Program came to be established in the farm bill reauthorization.

Over the past few years, I have learned a great deal about global child hunger from my House colleagues, from former Senators George McGovern and Bob Dole, from our hard-working officers at USDA and USAID, from the staff of the U.N. World Food Program, and from the many organizations that carry out U.S.-funded school feeding and development projects around the world, groups like Catholic Relief Services, World Vision, Save the Children, CARE, Land O'Lakes, Counterpart International and Mercy Corps, to name but a few.

I now know there are over 800 million people around the world for whom chronic hunger is a way of life, and, too often, a way of death. Over 300 million of these people are children and over half of these children do not attend school, mainly girls.

Every year, 6 million children in our world die of hunger-related causes. As David Beckmann, president of Bread for the World, has stated so eloquently, ''Even one child starving to death is a tragedy. Six million is a global catastrophe and a preventable one.''

Last November, the U.N. food and agriculture organization released its 2003 report on hunger. It found that after falling steadily during the 1990s, hunger is again on the rise. In the developing world, the number of malnourished people grew by an average of 4.5 million a year for the past 3 years. The report also found that hunger exacerbates the AIDS crisis, drives rural people into the cities, and forces women and children to trade sex for food and money.

But we can help break that cycle. We have learned from projects carried out around the world that school feeding programs are one of the most effective strategies to combat hunger and poverty and convince poor families to send their children to school. When programs are offered, enrollment and attendance rates increase significantly, particularly for girls. Instead of working or searching for food to combat hunger, children have the chance to go to school. Providing food at school is a simple, but effective, means to improve literacy and help poor children break out of poverty.

With the support of President Clinton and Secretary of Agriculture Dan Glickman, the McGovern-Dole program

began as a $300 million pilot program in 2001, providing nutritious meals in school settings to nearly 7 million children in 38 countries.

□ 2000

Wheat from Illinois, Minnesota, and Oregon went to feed children at schools in Bolivia and Lebanon. Corn, milk, and soybeans from farmers in Kansas and Wisconsin fed children in Nicaragua and Guatemala. Lentils from Idaho and Washington helped children return to school in Afghanistan. Beans from Colorado, rice from Texas and Louisiana, cooking oil from Florida and Tennessee, the bounty of America's farmers found its way to children attending humble schools around the world.

Mr. Speaker, global hunger, ignorance, and poverty are threats to our national security, and they are threats to our national spirit. How can our world be secure if hunger drives desperate people to ideological extremes? I firmly believe the McGovern-Dole program serves our national interests by attacking the breeding grounds of terrorism: hunger, poverty, ignorance, and despair, while at the same time ensuring that children receive meals in settings where they receive a quality education, not hate-filled indoctrination. At the end of the day, it will be programs like McGovern-Dole that ultimately triumph over poverty and terror.

S. Con. Resolution 114 commends the important role these programs play in the fight against hunger and in promoting basic education. It supports the expansion of the McGovern-Dole program and urges the President to work with the U.N. and other nations to increase international support for school feeding programs. By expanding the McGovern-Dole program, we can reach even more school-age children. We can help stabilize communities devastated by HIV/AIDS, and we can help developing nations achieve self-sufficiency and prosperity.

Mr. Speaker, international school feeding programs work. I commend this bill to my colleagues, and I urge them to support it.

I thank the gentleman from California for yielding me this time.

I want to thank the gentleman from California, the Ranking Member of the International Relations Committee Mr. LANTOS, for yielding me time. And I especially want to thank Chairman HYDE and Ranking Member LANTOS for their leadership and commitment to ending hunger and for their support of U.S. food aid programs. It was through their bipartisan leadership that the George McGovern-Robert Dole International Food for Education and Child Nutrition Program came to be established in the farm bill reauthorization.

Over the past few years, I have learned a great deal about global child hunger from my House colleagues; from former Senators George McGovern and Bob Dole; from our hard-working officers at USDA and USAID; from the staff of the UN World Food Program; and from the many organizations that carry out US-funded school feeding and development projects around the world—groups like Catholic Relief Services, World Vision, Save the Children, CARE, Land O' Lakes, Counterpart International, and Mercy Corps, to name but a few.

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With the support of President Clinton and Secretary of Agriculture Dan Glickman, the McGovern-Dole program began as a $300 million pilot program in 2001, providing nutritious meals in school settings to nearly 7 million children in 38 countries. Wheat from Illinois, Minnesota, and Oregon went to feed children at schools in Bolivia and Lebanon. Corn, milk and soy beans from farmers in Kansas and Wisconsin fed children in Nicaragua and Guatemala. Lentils from Idaho and Washington helped children return to school in Afghanistan. Beans from Colorado, rice from Texas and Louisiana, cooking oil from Florida and Tennessee—the bounty of America's farmers found its way to children attending humble schools around the world.

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S. Con. Res. 114 commends the important role these programs play in the fight against hunger and in promoting basic education. It supports the expansion of the McGovern-Dole program, and urges the president to work with the UN and other nations to increase international support for school feeding programs.

By expanding the McGovern-Dole program we can reach even more school-age children; we can help stabilize communities devastated by HIV/AIDS; and we can help developing nations achieve self-sufficiency and prosperity.

Mr. Speaker, many individuals and organizations deserve mention for the role they played in launching the Global Food for Education Initiative (GFEI) pilot program and for establishing the George McGovern-Robert Dole International Food for Education and Child Nutrition Program. First and foremost are the two gentlemen who are the namesakes of this program, former Senators McGovern and Dole. They have dedicated their lives to ending hunger and continue to be an inspiration to me and all my congressional colleagues on these issues. Another leader in this effort is former Secretary of Agriculture Dan Glickman, who had seen first hand the benefits of basic school feeding programs funded through USDA under its 416(b) Commodity Credit Corporation commodity surplus program. He knew these programs needed to expand and reach even more children, schools and communities, and he embraced the vision presented to him by Senators McGovern, Dole and myself. Secretary Glickman helped to organize a meeting at the White House with the President and his foreign policy and national security staff, as well as representatives from USAID and USDA. I remember President Clinton, upon conclusion of the formal presentation of the plan for expanded school feeding programs, looking up and saying, ''This is a simple concept that could have a great impact. Let's make it happen.'' And that is how the White House came to launch the $300 million pilot program just a few months later.

The GFEI pilot program was actually implemented under the Bush Administration and Secretary of Agriculture Ann Veneman. I would be remiss in my remarks should I fail in offering my praise to Mary Chambliss, Deputy Administrator of USDA's Foreign Agricultural Service/Export Credit Department. She and her staff took the description of an initiative formally announced by President Clinton at the July 2000 G–8 Summit in Okinawa, Japan, and turned it into a living and breathing reality, one which has benefited more than 7 million children world-wide.

Many Members of Congress in this House and in the other body have been true leaders in helping to build a genuinely broad, bipartisan coalition in support of the McGovern-Dole program. In particular, I would like to express my appreciation to Representatives JO ANN EMERSON, MARCY KAPTUR, DOUG BEREUTER, JIM LEACH, DON MANZULLO, GEORGE NETHERCUTT, LEONARD BOSWELL, TIM JOHNSON and MARK GREEN, who along with former Members of Congress Tony Hall, John Thune and Eva Clayton, were the original cosponsors of legislation to create the McGovern-Dole school feeding program. In the other body, leadership was provided by Senators, DICK DURBIN, RICHARD LUGAR, PATRICK LEAHY, MIKE DEWINE, TOM HARKIN, TOM DASCHLE, BYRON DORGAN, EDWARD KENNEDY and HERBERT KOHL.

Since the establishment of the McGovern-Dole program, especially in efforts to increase funding to maintain and establish these global

school feeding programs, additional Members of Congress have stepped forward and taken leadership roles, including Representatives FRANK WOLF and TOM LANTOS and Senators PAT ROBERTS, SAM BROWNBACK, ELIZABETH DOLE, and HILLARY CLINTON.

Mr. Speaker, the McGovern-Dole program and the initial pilot program would not have been successful were it not for the dedication and experience of the U.S. private voluntary organizations that implement these programs around the world—many of which I noted earlier in my remarks—and the United Nations World Food Program. My staff and I have visited several of these programs in Indonesia, Colombia and elsewhere, and we all owe them our gratitude and admiration for their work.

In addition, I would like to thank several other groups that helped me understand the needs and requirements of high-quality school feeding programs and how such programs might effectively reduce hunger among the world's children and attract them to enrolling and staying in school. These organizations include Friends of the World Food Program, Bread for the World, and Food Aid Coalition, Land O'Lakes, the American Soybean Association, the National Farmers Union, the American Farm Bureau Association, and the American School Food Service Association.

No individual program can end hunger, not here at home and certainly not around the world. But I believe that it is possible to end hunger, especially hunger among children, if we simply have the political will to make it happen. The McGovern-Dole school feeding program and other U.S.-funded school feeding and food security programs are vital components in this effort, and I am grateful to be part of the bipartisan congressional coalition in support of these programs.

Mr. Speaker, international school feeding programs work. I commend this bill to my colleagues and I urge them to vote in support of S. Con. Res. 114.

Mr. LANTOS. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Ohio (Ms. KAPTUR), who has been a fighter for children across the globe during her distinguished career here in this body.

Ms. KAPTUR. Mr. Speaker, I thank the eloquent gentleman from California (Mr. LANTOS) for yielding me this time and thank him for his great work on this and so many other issues, including humanitarian concerns around our globe. Also to the gentleman from Illinois (Chairman HYDE) and the gentleman from New Jersey (Chairman SMITH), who is with us here tonight, for moving this legislation, and to the gentleman from Massachusetts (Mr. MCGOVERN), who has been such a faithful leader as well. It is a joy to be with them.

Mr. Speaker, I will share a story about the idea that anchors this program and how it originally started. In February of 2000, I had the pleasure of visiting with Senator George McGovern while he served as U.S. Ambassador to the Food and Agriculture Organization in Rome. At that time he shared with me an editorial that he had written that he was hoping would get published in the Washington Post at the end of that month, and it was.

Referring to our own school lunch program here in our country, he asked a simple but provocative question, this man of the world and a decorated fighter pilot from World War II. He said, ''Why not provide a similar modest meal every day for every needy child in the world?'' He was thinking big, as he always thought big, and he knew that hunger and poverty was at the root of desperation, that it is at the root of what makes young people susceptible to the siren cry of all that is horrible, including terrorism. And he knew this before 9–11 because he had worked on it throughout his career, from his days as director of the Food for Peace Program through his days in the Senate and to this very moment as one of the world's most eloquent proponents on behalf of people who ask only for a fair chance at a decent life.

We came back to Washington, and when Secretary of Agriculture Dan Glickman was Secretary and Under Secretary for Farm and International Agricultural Programs was Gus Schumacher, we were able to move legislation through the administration and this House as part of the fiscal 2001 appropriation bill to support the beginnings of this program. Later that summer, President Clinton announced the creation of the program, encouraging other nations to join with us; and this all culminated in the McGovern-Dole Global Food Program, established as one of the greatest accomplishments of the 2002 Farm bill.

We started with $300 million, but unfortunately that declined every year, bottoming out in the current fiscal year of $56 million. The bill that we had on the floor yesterday raised it to a level of $75 million but serving only a fraction of the need that Senator McGovern had originally imagined; that well over $1 billion, we spend all of that on weapons, but here is food. Just imagine if we could put food in schools that would counter the madrassas in some of the most troubled parts of the world, what a difference we could make.

So I am pleased to join with my colleagues tonight to commend the gentlemen for bringing this wonderful bill to the floor to recognize the McGovern-Dole Global Food Program and to provide the kind of funding and support for it that could affect the lives of literally millions and millions of the young people of the Earth who will be our leaders of the future.

So as Senator McGovern said in his original editorial, there is no more useful task in the modern world than feeding the children on whom the future depends, and it is the right thing to do.

I include the following material for the RECORD:

[From the Washington Post Web site, Feb. 27, 2000]

TOO MANY CHILDREN ARE HUNGRY. TIME FOR LUNCH

(By George McGovern)

ROME.—On a recent fact-finding trip through Africa that took me to some of the most painfully destitute areas of the planet, I visited villages where conditions were heartbreaking: overcrowded shacks, no water safe to drink, no medical care, primitive agriculture, emaciated women and children. What touched my soul most deeply was one village school. Hungry youngsters yawned or stared vacantly, seemingly unable to concentrate on anything other than their empty stomachs. During recess, there was no childish laughter, no running or playing—only the same lethargy and weariness that pervaded the classroom.

The saddest part of that scene was its terrible familiarity. In the 40 years that I have observed food assistance programs, I have seen similar poverty in Asia and Latin America. Conditions are nearly as bad in parts of Russia and the Balkans. There are now an estimated 790 million chronically hungry people in the world, of whom 300 million are school-age or younger. Most of them live in Africa and Asia.

We in the United States can do something about it. We can emulate one of the most beneficial programs ever launched on behalf of children—the U.S. school lunch program. For the past 22 years—through legislation I cosponsored with former senator Robert Dole—America has provided a nutritious meal to almost any student who can't afford one; currently, about 27 million children are fed every day. By any reasonable criteria, this program has been a smashing success. It attracts children to school and keeps them there under conditions in which they are able to learn and grow.

Why not provide a similar modest meal every day for every needy child in the world? Could not such a program of health, healing and hope be the centerpiece of the current U.N. commitment to cut world hunger in half by the year 2015?

The U.N. World Food Program already has launched some efforts in this direction. After considerable discussion with some of the world's experts in nutrition and food assistance, I have concluded that it would be both practical and right for the United States, within the U.N. framework, to take the lead in organizing a worldwide school lunch program.

There is precedent for success in this approach. In 1961, shortly after President John F. Kennedy named me the first director of U.S. Food for Peace, I received a telephone call from a dean at the University of Georgia. He told me that in his judgment, the federal school lunch program had done more to advance the development of the South than any other federal program. He pointed out that malnourished children seldom make good students—it's difficult to concentrate on reading, writing and arithmetic when you are hungry. He concluded: ''If I had to preserve one federal program above all others, I would choose the school lunch program.'' And he urged me to draw on its example in extending Food for Peace help to our fellow humans abroad.

I soon found a place to experiment with the dean's conviction—the poverty stricken Puno area of Peru. Puno had an illiteracy rate of 90 percent—unsurprising, since nine out of 10 students dropped out of school by the sixth grade. Even those brief years of education were blighted by malnutrition, lethargy and dulled minds.

With the cooperation of a remarkable priest, the Rev. John McClellan of the Maryknoll Fathers, I launched a school lunch program in Puno in October 1961. The United States made the food available, and the Maryknoll Fathers—with the help of local parents—prepared and served it. The government of Prime Minister Pedro Beltran built kitchens and dining halls and assisted with distribution. Forty-five Peace Corps workers contributed to the effort.

We began by feeding 30,000 children. Within six months, school attendance had increased 40 percent and academic performance had improved by 50 percent. That kind of success inspired expansion: By 1965, Peru was feeding more than 1 million schoolchildren a day.

And it wasn't just happening in Peru. Three years after the first program was launched in Puno, Food for Peace was providing 12 million children in Latin America with meals. Today, with local governments carrying most of the cost, the figure has more than doubled.

It is difficult to locate an informed person in Latin America who doesn't sing the praises of the school lunch program. Study after study shows that a higher percentage of children attend school and remain through graduation when lunch is provided. Academic performance improves. Children are not only smarter but stronger.

And there is another benefit in an overcrowded world: As a society's educational level rises—especially among girls—the birthrate goes down. Education is the surest foundation for responsible family planning.

Some may ask: Can the United States, even with the help of other nations, afford all this? What will it cost American taxpayers? These are legitimate questions, and they deserve thoughtful answers.

Having studied a number of cost analyses, I believe that we could launch a start-up program, providing lunches to millions of hungry schoolchildren not now being fed, for about $3 billion a year. This would expand some existing U.N. and local programs, and would include a three-tiered price system similar to the one in the United States: Depending on what their families can afford, students pay all, part or none of the cost of their meal. That $3 billion would be provided in the same way as funding for most international relief programs—with 25 percent paid by the United States, and the rest by other donor nations.

In addition, I would recommend that the United Nations copy another wonderfully successful American program—the supplementary feeding program for pregnant and nursing women and their children below the age of 5, known as WIC. It is in these early years that a child is most likely to be scarred and handicapped for life by malnutrition. I estimate that a serious attempt at beginning a worldwide WIC program would cost close to $1 billion a year, with the United States again paying 25 percent.

For both programs, therefore, the initial cost to American taxpayers would be about $1 billion a year. Over the subsequent years, the programs would grow in scope—and presumably in cost.

But the United States would benefit, too. First, since most of the U.S. contribution would be in the form of agricultural commodities, the market for cereal grain, dairy products and livestock would be strengthened. Second, since U.S. law requires that at least half of all foreign assistance must be carried in American ships, our Merchant Marine would benefit materially—as would the trucks and trains carrying the commodities to ports for shipment.

Over the past year, I have talked with ranchers and farmers in my home state, South Dakota, and in Montana who tell me they can't hold on for more than another year or two unless there is some relief from price-depressing surpluses. Ironically, it is the efficiency and productivity of American farmers, the best in the world, that breeds the low prices now threatening to put them out of business. It would be a happier irony if feeding hungry children became the means of helping to save American farmers, ranchers and dairymen.

Other farm surplus countries such as France, Canada and Australia would experience similar benefits.

We now that the emergency demands of World Wars I and II greatly stimulated the farm and industrial economies of the United States. The cost of these gigantic wars was enormous—vastly larger than what is proposed here for a war against hunger. But they greatly enriched the American economy. We could expect proportionate benefits from a school lunch program.

More than half a century ago, I flew 35 missions as a bomber pilot, operating from a base in Cerignola, Italy. I never doubted the soundness of our cause in helping to smash Hitler's terrible war machine. But I'm especially proud of my final mission: At the end of the war, we filled our bombers with unused military rations and flew them to the devastated cities of Europe. I will never forget the grateful people, some of them our recent enemies, waiting eagerly to receive and distribute the boxes of surplus food. I imagined some of these same people taking cover from our bombs only a short time earlier, now looking into the skies for hope and deliverance.

That postwar food delivery was practical: There would have been no point in hauling unused C-rations back to the United States. It was effective: We fed people who might have starved, and we began the process of rebuilding war-torn Europe. Most of all, it was the right thing to do.

For the same reasons, we should enlist today in the effort to provide a daily meal to every needy student around the world. Having returned to Italy after so many years, I believe that my mission again is practical: Americans produce more food than we can eat or profitably sell. It can be effective: There is no more useful task in the modern world than feeding the children on whom its future depends. And it is the right thing to do.

George McGovern is the U.S. ambassador to the United Nations Agencies for Food and Agriculture in Rome. His book, ''Ending World Hunger in Our Time,'' will be published this fall by Simon & Schuster.

Mr. LANTOS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. DAVIS), who is always in the forefront of all humanitarian endeavors.

(Mr. DAVIS of Illinois asked and was given permission to revise and extend his remarks.)

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

I rise in strong support of H. Con. Res. 422, concerning the importance of the distribution of food in schools to hungry or malnourished children around the world. This bill is a step forward in giving hope to many hungry and malnourished children around the world.

There are more than 300 million chronically hungry and malnourished children around the world, and more than half of them go to school on an empty stomach. Distribution of food in schools is one of the simplest and most effective ways to fight hunger and malnourishment among children.

Providing school meals to hungry or malnourished children increases and encourages attendance rates significantly, especially for girls. In developing countries, illiterate girls often marry as early as 11 years old and before the age of 18 may have as many as seven children. Studies have shown that girls who attend schools tend to marry later in life, practice greater restraint in spacing births, and have an average of 50 percent fewer children.

In a study by the International Food Policy Research Institute, it found that 44 percent of the reduction in child malnutrition between 1970 and 1995 was attributed to an increase in women's education, which shows what we all know: Education is one of the major keys in fighting poverty. So when we supply meals to school children, not only do we reduce illiteracy but we also help fight poverty.

I simply rise in strong support. I commend the gentleman from Massachusetts (Mr. MCGOVERN) for his introduction of this legislation.

Mrs. EMERSON. Mr. Speaker, S. Con. Res. 114, sponsored by my good friend and colleague from Massachusetts, JIM MCGOVERN, calls to attention one of America's most important humanitarian missions—alleviating the suffering of the world's starving children. Hunger claims more lives worldwide than HIV and AIDS, malaria, and tuberculosis combined; a tragedy.

Critical to feeding starving children is the McGovern-Dole International Food and Education and Child Nutrition Program, which provides hungry children around the world at least one nutritious meal each day in a school setting. This program has proven effective at reducing child hunger, increasing academic attendance and performance, and strengthening community commitment to education.

The McGovern-Dole program currently feeds two million children a year. That's two million children who will attend school. Two million children who will not have to suffer through an afternoon of stomach pain from too little nutrition. Two million children who will grow up knowing that America cares, that America is willing to help those most in need. Today, more than ever, it is vital that individuals living in impoverish areas across the world look to the United States as an ally, and more than that, a partner.

For these reasons, I am encouraged to see that the Agriculture Appropriations bill for the upcoming fiscal year, that the House overwhelmingly passed yesterday, included a $25 million increase for the McGovern-Dole program. Chairman HENRY BONILLA of the Agriculture Appropriations Subcommittee, of which I am a member, demonstrated his compassion for the world's malnourished children by supporting the President's proposed increase for this program. This increase will make a significant difference.

This resolution is right on target: A humanitarian crisis exists in the world and the McGovern-Dole program is part of the solution. I urge my colleagues to support this meaningful resolution.

Mr. LANTOS. Mr. Speaker, I urge all my colleagues to support this legislation. I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). The question is on the motion offered by

the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 114.

The question was taken.

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

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

The yeas and nays were ordered.

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

## GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1587, as amended.

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

There was no objection.

## REAFFIRMING UNWAVERING COMMITMENT TO TAIWAN RELATIONS ACT

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 462) reaffirming unwavering commitment to the Taiwan Relations Act, and for other purposes.

The Clerk read as follows:

H. CON. RES. 462

Whereas April 10, 2004, marked the 25th anniversary of the enactment of the Taiwan Relations Act (22 U.S.C. 3301 et seq.), codifying in law the basis for continued commercial, cultural, and other relations between the United States and Taiwan;

Whereas it is and will continue to be United States policy to further encourage and expand these extensive commercial, cultural, and other relations between the people of the United States and the people of Taiwan during the next quarter century;

Whereas since its enactment in 1979 the Taiwan Relations Act has been instrumental in maintaining peace, security, and stability in the Taiwan Strait;

Whereas when the Taiwan Relations Act was enacted, it affirmed that the decision of the United States to establish diplomatic relations with the People's Republic of China was based on the expectation that the future of Taiwan would be determined by peaceful means;

Whereas the Government of the People's Republic of China refuses to renounce the use of force against Taiwan;

Whereas the Department of Defense report entitled ''Annual Report on the Military Power of the People's Republic of China,'' dated July 30, 2003, documents that the Government of the People's Republic of China is seeking coercive military options to resolve the Taiwan issue and, as of the date of the report, has deployed approximately 450 short-range ballistic missiles against Taiwan and is adding 75 missiles per year to this arsenal;

Whereas the escalating arms buildup of missiles and other offensive weapons by the People's Republic of China in areas adjacent to the Taiwan Strait is a threat to the peace and security of the Western Pacific area;

Whereas section 3 of the Taiwan Relations Act (22 U.S.C. 3302) requires that the United States Government will make available defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability;

Whereas the Taiwan Relations Act requires the United States to maintain the capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan;

Whereas the Taiwan Relations Act affirms the preservation and enhancement of the human rights of the people of Taiwan as an objective of the United States;

Whereas Taiwan serves as a model of democratic reform for the People's Republic of China;

Whereas Taiwan's 1996 election was the first time in five millennia of recorded Chinese history that a democratically elected president took office;

Whereas Taiwan's democracy has deepened with a peaceful transfer of power from one political party to another after the presidential election of 2000;

Whereas the relationship between the United States and Taiwan has deepened with Taiwan's evolution into a full-fledged, multiparty democracy that respects human rights and civil liberties;

Whereas high-level visits between government officials of the United States and Taiwan are not inconsistent with the ''one China policy''; and

Whereas any attempt to determine Taiwan's future by other than peaceful means and other than with the express consent of the people of Taiwan would be considered of grave concern to the United States: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring)*, That—

(1) Congress reaffirms its unwavering commitment to the Taiwan Relations Act (22 U.S.C. 3301 et seq.) as the cornerstone of United States relations with Taiwan;

(2) the military modernization and weapons procurement program of the People's Republic of China is a matter of grave concern, and particularly the current deployment of approximately 500 missiles directed toward Taiwan;

(3) the President should direct all appropriate United States Government officials to raise these grave concerns regarding military threats to Taiwan with officials of the Government of the People's Republic of China;

(4) the President and Congress should determine whether the escalating arms buildup, including deployment of offensive weaponry and missiles in areas adjacent to the Taiwan Strait, requires that additional defense articles and services be made available to Taiwan, and the United States Government should encourage the leadership of Taiwan to devote sufficient financial resources to the defense of their island;

(5) as recommended by the U.S.-China Economic and Security Review Commission, the Department of Defense should provide a comprehensive report on the nature and scope of military sales by the Russian Federation to the People's Republic of China to the Committees on International Relations and Armed Services of the House of Representatives and Committees on Foreign Relations and Armed Services of the Senate;

(6) the President should encourage further dialogue between democratic Taiwan and the People's Republic of China; and

(7) the United States Government should not discourage current officials of the Taiwan Government from visiting the United States on the basis that doing so would violate the ''one China policy''.

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

Mr. PAUL. Mr. Speaker, is either gentleman opposed to the bill?

Mr. LANTOS. No, Mr. Speaker. I am strongly in support of this legislation.

Mr. PAUL. Mr. Speaker, I seek time in opposition.

The SPEAKER pro tempore. The gentleman from Texas (Mr. PAUL) will control 20 minutes in opposition.

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

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that my time be equally divided with the gentleman from California (Mr. LANTOS).

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

There was no objection.

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

Mr. Speaker, I rise in strong support of H. Con. Res. 462, a resolution reaffirming the unwavering support of the Congress for the Taiwan Relations Act. This year marks the 25th anniversary of the enactment of the Taiwan Relations Act, one of Congress' most important and enduring pieces of legislation. Over the past quarter century, the Act has served as the foundation of the United States' relationship with the people of Taiwan and has ensured the island's security. On this anniversary, it is fitting and appropriate for the Congress to review the cross-strait issue and reassess the needs of our friends in Taiwan.

In contrast to many other pieces of 25-year-old legislation, the Taiwan Relations Act has exceeded expectations. The Act has allowed the United States to maintain its close ties with the people of Taiwan while actively engaging Asia's rising power, the People's Republic of China, on a myriad of fronts, including human rights. In doing so, the measure has been important to the maintenance of peace and stability across the Taiwan Strait and throughout the entire Western Pacific region.

The Taiwan Relations Act has also played an indirect role in promoting democracy in Taiwan by providing the conditions of external security that have allowed the people of Taiwan to focus on internal reform and democratization.

In the years since Congress passed the Taiwan Relations Act in 1979, Taiwan has developed into a lively and successful democracy, a tribute to the courage and determination of the island's remarkable people. The 1996 presidential election in Taiwan was the

first time in China's 5 millennia of recorded history that a fully democratically elected government assumed office. The election of 2000, which resulted in a peaceful transfer of power from one political party to another, evidenced a deepening democratic system. Two months ago, Taiwan completed its third direct presidential election.

The U.S. has watched this island nation develop into a mature, robust, vibrant democracy that respects human rights and civil liberties. Knowledge of our shared values has strengthened the commitment of Americans to stand by the people of Taiwan.

In contrast to Taiwan, Mr. Speaker, the mainland has failed to implement meaningful political reform, and the PRC's respect for fundamental human rights has deteriorated. Furthermore, the People's Republic of China has adopted a more aggressive military posture towards Taiwan. Over the past 5 years, the PRC has dramatically increased its stockpile of weapons. Today, China has approximately 500 missiles aimed at Taiwan, a matter of grave concern to the freedom-loving people of Taiwan and to all of us here in the United States. Given China's refusal to renounce the use of force against Taiwan, the arms buildup is a threat to peace and security in the Taiwan Strait and to the stability of the entire region.

Changes in cross-strait relations, Mr. Speaker, including democratization of Taiwan and an arms buildup by the People's Republic of China, requires that the United States continue to strengthen its support for the people and the democracy of Taiwan. H. Con. Res. 462 reinforces America's commitment to help Taiwan defend itself from outside coercion and intimidation. Continuing the tradition established by the Taiwan Relations Act, H. Con. Res. 462 urges the President and the Congress to reevaluate the defense needs of Taiwan and encourages the government of Taiwan to devote sufficient financial resources to defense of its island.

□ 2015

The resolution also, Mr. Speaker, encourages greater interaction between Taiwan and the U.S. with the goal of strengthening democracy on the island. Visits between the officials of the U.S. and Taiwan are not inconsistent with the One-China Policy. As such, officials of Taiwan should not be discouraged from visiting the United States.

Mr. Speaker, it is my hope that increasingly warmer cross-strait relations will ultimately transcend the need for the Taiwan Relations Act, and resolutions such as this one would not be needed. In time, the democracy which Taiwan has cultivated can take further root and flourish throughout all of China. However, until that day comes, resolutions such as this one are necessary to clearly promote peace and security in the region and to ensure continuing democracy in Taiwan.

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

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

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

Mr. PAUL. Mr. Speaker, I would like to start off by saying that I really do not have a lot of disagreement with what the chairman has to say, because I certainly think we should be friends with Taiwan. I believe our goals are very similar. It is just that the approach I have would be quite different.

I happen to believe that we have ignored for too long in this country and in this body the foreign policy that was designed by our Founders, a foreign policy of nonintervention. I think it is better for us. I think it is healthy in all ways, both financially and in that it keeps us out of wars, and we are allowed to build friendships with all the nations of the world. The politics of nonintervention should be given some serious consideration.

Usually, the argument given me for that is that 200 years ago or 250 years ago things were different. Today we have had to go through the Cold War and communism; and, therefore, we are a powerful Nation and we have an empire to protect; and we have this moral obligation to police the world and take care of everybody.

But, Mr. Speaker, my answer to that is somewhat like the notion that we no longer have to pay attention to the Ten Commandments or the Bill of Rights. If principles were correct 200 years ago or 250 years ago, they should be correct today. So if a policy of friendship and trade with other nations and nonintervention were good 250 years ago, it should be good today.

I certainly think the Taiwan Relations Act qualifies as an entangling alliance, and that is what we have been warned about: ''Do not get involved in entangling alliances.'' It gets us so involved, we get in too deep, and then we end up with a military answer to too many of our problems. I think that is what has happened certainly in the last 50 years.

I essentially have four objections to what we are doing. One is a moral objection. I will not dwell on the first three and I will not dwell on this one. But I do not believe one generation of Americans has a moral right to obligate another generation, because, in many ways, when we make this commitment, this is not just a friendly commitment; this is weapons and this is defense.

Most people interpret the Taiwan Relations Act as a commitment for our troops to go in and protect the Taiwanese if the Chinese would ever attack. Although it is not explicit in the act, many people interpret it that way. But I do not believe that we or a generation 25 years ago has the moral right to obligate another generation to such an overwhelming commitment, especially if it does not involve an attack on our national security. Some say that if Taiwan would be attacked, it would be. But, quite frankly, it is a stretch to say that settling that dispute over there has something to do with an attack on our national security.

Economics is another issue. We are running out of money; and these endless commitments, military commitments and commitments overseas, cannot go on forever. Our national debt is going up between $600 billion and $700 billion a year, so eventually my arguments will win out, because we are going to run out of money and this country is going to go broke. So there is an economic argument against that.

Also, looking for guidance in the Constitution. It is very clear that the Constitution does not give us this authority to assume responsibility for everybody, and to assume the entire responsibility for Taiwan is more than I can read into the Constitution.

But the issue I want to talk about more than those first three is really the practical approach to what we are doing. I happen to believe that the policy of the One-China Policy does not make a whole lot of sense. We want Taiwan to be protected, so we say we have a One-China Policy, which occurred in 1982. But in order to say we have a One-China Policy, then we immediately give weapons to Taiwan to defend against China.

So this, to me, just does not quite add up. If we put arms in Taiwan, why would we not expect the Chinese to put arms in opposition, because they are only answering what we are doing? What happened when the Soviets went to Cuba? They put arms there. We did not like that. What would happen if the Chinese went into Cuba or Mexico? We are not going to like that. So I think this part is in conflict with what the National Relations Act says, because we are seeking a peaceful resolution of this.

So I would urge my colleagues to be cautious about this. I know this will be overwhelmingly passed; but, nevertheless, it is these types of commitments, these types of alliances that we make that commit us to positions that are hard to back away from. This is why we get into these hot wars, these shooting wars, when really I do not think it is necessary.

There is no reason in the world why we cannot have friendship with China and with Taiwan. But there is something awfully inconsistent with our One-China Policy, when at the same time we are arming part of China in order to defend itself. The two just do not coexist.

Self-determination, I truly believe, is worth looking at. Self-determination is something that we should champion. Therefore, I am on the strong side of Taiwan in determining what they want by self-determination. But what do we do? Our administration tells them they should not have a referendum on whether or not they want to be independent and have self-determination.

So in one sense we try to help them; and, in the other sense, we say do not do it.

I am just arguing that we do not have to desert Taiwan. We can be very supportive of their efforts, and we can do it in a much more peaceful way and at least be a lot more consistent.

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

Mr. PAUL. I yield to the gentleman from California.

Mr. LANTOS. Mr. Speaker, I want to thank my friend for yielding.

I just want to correct the impression the gentleman left with his observation, which implied that Taiwan is getting economic aid from the United States.

Mr. PAUL. Mr. Speaker, reclaiming my time, I will answer that.

Mr. LANTOS. Mr. Speaker, I have not yet made my point. Taiwan is getting no economic aid from the United States.

Mr. PAUL. Mr. Speaker, reclaiming my time, that is correct. I did not say that, so the gentleman has implied that; and that is incorrect that I said it.

I do know that it is a potential military base for us, because when I was in the Air Force, on more than one occasion I landed on Taiwan. So they are certainly a close military ally.

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

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

Mr. Speaker, I strongly support this resolution and urge all of my colleagues to do so as well.

The 25th anniversary of the Taiwan Relations Act is an exceptional opportunity to understand the ongoing and growing relevance of this critically important law and to discuss the future relations between the United States and Taiwan.

I want to commend my friend, the gentleman from Illinois (Chairman HYDE), and my friend, the gentleman from New Jersey (Chairman SMITH), for introducing this resolution and for highlighting the important matters pending in the U.S.-Taiwan relationship.

Mr. Speaker, when I first visited Taiwan decades ago, Taiwan's people were governed by an authoritarian regime which silenced independent media, threw the political opposition in jail, and refused to live by internationally recognized human rights.

Today, Taiwan has become a fully developed democracy, complete with hard-fought elections, tight margins of victory, and a prosperous economy. This is sort of the American Dream in foreign policy, to look at totalitarian, dictatorial societies which are destitute and see them develop into democratic, prosperous nations.

Under the Taiwan Relations Act, Taiwan's GDP has increased ten-fold between 1979 and today. Two-way trade between Taiwan and the United States has grown from $7 billion to over $65 billion during this period. The Taiwan Relations Act has ensured that the United States provides Taiwan with sufficient military equipment to defend itself. Our Nation even sent aircraft carriers into the Taiwan Strait to make it clear that the United States would not abandoned Taiwan to an uncertain fate.

In short, Mr. Speaker, the Taiwan Relations Act has effectively provided an institutional framework and a legal basis for a strong political security and economic relationship between Taiwan and the United States. It has proven to be an enormously flexible and durable law which has prevented various administrations from selling out Taiwan and its people due to pressure from Mainland China.

The 25th anniversary of the Taiwan Relations Act gives us a chance to think about new directions in our relationship with Taiwan. We must redouble our efforts to build closer ties to Taiwan, while at the same time maintaining a mutually productive relationship with the PRC.

We can have a constructive relationship with Beijing while still protecting Taiwan's core interests. Beijing must understand that, from an American perspective, any settlement between China and Taiwan must be arrived at through peaceful means, without coercion, and with the full support of the people of Taiwan.

To ensure that the Taiwanese people are not forced into an unwise deal with Beijing, we must continue to support Taiwan's legitimate defense needs, and the leadership of Taiwan must devote sufficient funds to defending their country. To that end, I strongly support the possible sale of the Aegis system to Taiwan and the expansion of high-level military and political exchanges between our two nations.

Mr. Speaker, when President Lee Teng-hui wished to give a speech at his alma mater, Cornell University, it was my great pleasure and privilege to win passage of a resolution demanding that the Department of State grant him a visa. We won that battle, and the world kept spinning.

Mr. Speaker, it was a great pleasure for me to host Taiwan's Vice President, Annette Lu, during a recent visit to San Francisco. It is my fondest hope that Congress will have the honor of greeting both President Chen and Vice President Lu in Washington in the foreseeable future.

Mr. Speaker, under the umbrella of the Taiwan Relations Act, the United States and Taiwan have brought democracy to 25 million people, secured their economic future and protected them from hostile military threats.

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This, Mr. Speaker, is an amazing achievement. I strongly support this legislation and urge all of my colleagues to do so as well.

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

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

Very briefly, let me mention that this last election was marred by news revealing that there was an assassination attempt. It has been very much in the news in question about the authenticity of this assassination. And, actually, the election itself is believed to be under a cloud with many people in Taiwan. So to paint too rosy a picture on that, I am pleased that they are making progress, but it is not quite as rosy as it has been portrayed here.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Speaker, the policy of the United States of America was articulately restated today by the Bush administration, and that statement is that there is only one China. The one China policy and the Taiwan Relations Act have resulted in stability and peace between China and Taiwan for more than a generation. This policy has created security for our allies, benefited U.S. interests in the region, and allowed for unprecedented economic growth in the region, improving the lives of millions of people.

While the Taiwan Relations Act allows for the U.S. to supply military assistance to Taiwan to defend itself, this resolution ignores a very important component of the U.S. policy that is critical to this debate. In light of the rising tensions between China and Taiwan, potentially dangerous tensions, Taiwan has a responsibility, in fact, the obligation, not to pursue policies that would unilaterally alter its current status.

The Taiwan Relations Act is intended to defend Taiwan, but it must not be considered a blank check to commit U.S. forces to defend any pursuit of independence by political leaders in Taipei.

I cannot and I will not support an ambiguous resolution that could one day serve as a premise to commit American sons and daughters to defend the reckless political actions of Taiwan's leaders. The presidential elections earlier this year in Taiwan and the controversy regarding how they were conducted should raise very serious concerns in this House.

The future of Taiwan's relationship with the U.S. is dependent upon a peaceful and stable Taiwan Strait. This is clear.

A similar message is absent from this resolution that also must be sent to Taiwan's leadership. I will oppose this resolution today because it fails to send a message of prudence and responsible behavior to both China and Taiwan. That is the foundation of the one China policy.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself 1 minute to respond briefly, and I think it needs to be responded to.

The Taiwan Relations Act made it very clear in section 3 that there is no ambiguity about the policy. It is very

clear to make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.

Nobody in their right mind or in their wildest dreams would ever conceive of Taiwan attacking the mainland. It is all about a credible deterrence so that that dialogue between Beijing and Taipei can go forward, and that is why I think that this law has been so important in helping to maintain that protective cocoon, if you will, so that this dialogue again could go forward without an invasion from the People's Republic of China.

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

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

Once again, I want to make the point about the inconsistency of our policy. In 1979, the Taiwan Relations Act was put in place mainly because we orchestrated getting them kicked out of the U.N., so we had to do something, so we passed this act, and we ended official relations. We do not have ambassadors to Taiwan. That is part of this absurdity of the one China policy. Yet, at the same time, we feel this obligation and this commitment to make sure they have these weapons for defense. I mean, it just does not add up.

All we need is a consistent pattern saying that people have a right to self-determination and encourage it and get out of the way. Those people over there in Taiwan right now, they are investing in China. The natural courses of events will take care of it. We have the South Koreans wanting to deal with the North Koreans, and we tend to get in the way; and here we have the Taiwanese who are investing, and they would like to work some of this out, and too often we get in the way.

Now, the chairman mentioned a phrase in the resolution in defense of his position, but it is one that I am concerned about. It says, in section 3, requires the United States Government to make available defense articles. We do not have any choice. We make an absolute commitment that we are going to put those weapons there, and we are looking for trouble. I mean, this is how you start wars, putting weapons in there.

Once again, what if they did that in Cuba? What did we do when Russia did it in Cuba? Can we not have any understanding or empathy of what happens? And what if they did it in Mexico? We would have no part of it.

So this, to me, just does not make any sense.

And then in the next phrase, I am also concerned about this, and it restates the position in the Taiwan Relations Act, whereas the Taiwan Relations Act requires the United States to maintain the capacity to resist any resort to force.

Now, we have to think about that. Most people interpret that as, we are on our way, the boys are ready to go. No matter how thinly we are spread around the world, the capacity is now currently interpreted that, yes, we would come to their aid, and it sounds like people in support of this resolution would support that. But that is not the way this country is supposed to go to war. And this, to me, is a preamble, if there is a skirmish or a fight over there and it is going to be bigger because we are there and providing the weapons.

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

Mr. LANTOS. Mr. Speaker, I am delighted to yield 2 minutes to the gentleman from New York (Mr. ENGEL), my distinguished colleague on the Committee on International Relations.

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of this resolution.

We look at Taiwan today and, as the gentleman from California pointed out before, it is a success story. Taiwan is a democracy. Taiwan has an economy that is the 16th largest in the world. I come from the premise that we should be supportive of countries that are supportive of us, and Taiwan has been a good friend of the United States and has shown that it is a true democracy.

I had the honor of meeting with President Chen in New York several months ago, and I have always been a great admirer of a country that took a system that was autocratic and undemocratic and transformed it into a very democratic country.

Now the Taiwan Relations Act in 1979 was crafted very delicately because, yes, we do have a one China policy, but we do not want to abandon our friends in Taiwan. Therefore, I believe it is the responsibility of our country to ensure that the people of Taiwan have the capability not to be overrun by anyone else and to have the capability to defend themselves.

Now, in the resolution, it says that the Department of Defense report, our Department of Defense report entitled Annual Report on the Military Power of the People's Republic of China dated July 30, 2003, documents, and I am reading, that the government of the People's Republic of China is seeking coercive military options to resolve the Taiwan issue and, as of the date of the report, has deployed approximately 450 short-range ballistic missiles against Taiwan and is adding 75 missiles per year to this arsenal; whereas the Taiwan Relations Act requires the U.S. to maintain the capacity to resist any force or other forms of coercion that would jeopardize the security or the social or economic system of the people of Taiwan.

This is what the Taiwan Relations Act commits us to do. It is what we should do. It is right. It is proper. We stand with the people of Taiwan and their democratic ways, and I am proud to be a part of reaffirming the unwavering commitment to the Taiwan Relations Act by the United States Congress.

Mr. LANTOS. Mr. Speaker, we have no additional requests for time. We yield back the balance of our time, and I urge all of my colleagues to support this legislation.

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

Let me just restate my general position, because my defense is that of a foreign policy of nonintervention, sincerely believing it is in the best interests of our people and the world that we get less involved militaristically.

Once again, I would like to make the point that if it is a true and correct principle because of its age, it is not negated. If it is a true principle and worked 200 years ago or 400 years ago, it is still a principle today; and it should not be discarded.

I would like to just close with quoting from the Founders. First, very simply, from Jefferson. His advice was, ''Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none.''

John Quincy Adams: ''Wherever the standard of freedom and independence has been or shall be unfurled, there will her heart, her benedictions, and her prayers be. But she goes,'' and ''she'' is referring to us, the United States, ''but she goes not abroad in search of monsters to destroy. She is the well-wisher to the freedom and independence of all. She is the champion and vindicator only of her own. She will commend the general cause by the countenance of her voice, and the benignant sympathy of her example.''

And our first President. He is well-known for his farewell address, and in that address he says, ''Harmony, liberal intercourse with all nations, are recommended by policy, humanity, and interest. But even our commercial policy should hold an equal and impartial hand: neither seeking nor granting exclusive favors or preferences; consulting the natural course of things; diffusing and diversifying by gentle means the streams of commerce, but forcing nothing.''

Force gets us nowhere. Persuasion is the answer. Peace and commerce is what we should pursue.

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

Mr. SOUDER. Mr. Speaker, I rise in support of the ROC. The Republic of China, more commonly known as Taiwan, is a democratic haven perched on the edge of Asia and confronted everyday with the scourge of communism.

H. Con. Res. 462 reaffirms an unwavering commitment by the United States to the Taiwan Relations Act and to the ROC.

From the moment the communists overran the Chinese mainland, the Republic of China on Taiwan has been threatened with invasion and destruction. The dictators in Beijing have sought to isolate Taiwan from the rest of the world. They put pressure on Taiwan to be subservient to Beijing's diktats. Despite this constant shadow, the people of Taiwan have built a vibrant market economy and an equally vibrant democracy based on the rule of law.

As Taiwan has prospered and worked to achieve full democracy, the United States has stood shoulder to shoulder with Taiwan against the potential onslaught of the so-called ''People's'' Republic of China. Unlike in mainland China, the people of Taiwan enjoy many of the freedoms that we in the United States also enjoy.

As mainland China develops economically, it would be easy for the United States to focus on Beijing and forget about our longstanding ally. This is not and never should be the case. The United States must continue to be a partner with Taiwan. We must do what we can to help Taiwan maintain its political and economic independence. Although the United States does not maintain full diplomatic relations with the ROC, our commitment, outlined in the Taiwan Relations Act, has never wavered.

The communist government in Beijing has made it clear time and again that it will not back away from its Taiwan policy. Whether it is naval exercises in the Taiwan Straits or objecting to Taiwan's membership in the World Health Organization, Beijing continues to menace the ROC.

When you look at a map of Asia, the PRC clearly dwarfs Taiwan. It is many, many times bigger geographically and many, many times more populated. Any time it chooses, the PRC could overrun Taiwan and end the democratic experiment in that country. It is only the backing of the United States and the U.S. commitment outlined in the Taiwan Relations Act, that has kept the communists at bay.

As the PRC continues to develop economically and politically, it is important that the United States have allies in the region with whom we can work vis-à-vis mainland China. Taiwan is such an ally. They share our values of democracy and market economics. We must ensure that Taiwan remains free to act independently of China. The Taiwan Relations Act ensures that they are able to do so.

Mr. TANCREDO. Mr. Speaker, I rise in strong support of H. Con. Res. 462, reaffirming our unwavering support to the Taiwan Relations Act, and the people of the Republic of China or Taiwan.

For more than two decades, the Taiwan Relations Act has been the basis for the U.S.-Taiwan relationship, and a cornerstone of stability in Taiwan, and in the Western Pacific. And while the set of circumstances that made the Taiwan Relations Act necessary remains a regrettable chapter in U.S. history, its presence has helped ensure the safety of the people of Taiwan for the last 25 years.

In stark contrast to his predecessor Jimmy Carter, President Reagan worked to improve the mutual friendship and security between Taiwan and the United States. A strong voice for freedom and democracy, President Reagan sought to provide greater security to the people of Taiwan by making a number of assurances to Taiwan. Among other things, President Reagan promised not to set a date for ending defensive arms sales to Taiwan; not to consult with the unelected leaders of Communist China before making any arms sales to Taiwan; not to pressure Taiwan to negotiate with Communist China on the issue of reunification; and not to abandon the Taiwan Relations Act.

Over the last 25 years, Taiwan has made a full transition to democracy. The Taiwan Relations Act, President Reagan's efforts, and most of all the work of the people of Taiwan have helped to make these changes a reality.

Mr. Speaker, the passage of this resolution will send a strong message to the leaders of Communist China that America is a partner and a friend to Taiwan, and that America has no plans to abandon our commitment to the people of Taiwan or their fundamental right to self-determination.

Mr. SMITH of New Jersey. Mr. Speaker, we have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. RENZI). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 462.

The question was taken.

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

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

The yeas and nays were ordered.

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

## EXPRESSING THE SENSE OF THE HOUSE OF REPRESENTATIVES IN SUPPORT OF FULL MEMBERSHIP OF ISRAEL IN THE WEOG

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 615) expressing the sense of the House of Representatives in support of full membership of Israel in the Western European and Others Group (WEOG) at the United Nations, as amended.

The Clerk read as follows:

H. RES. 615

Whereas since the mid-1960s, the member states of the United Nations have been divided into five groups, including the Western European and Others Group and the African, Asian, Latin American, and Eastern European groups;

Whereas the United Nations increasingly relies on this ''Group System'' to facilitate its work and two leading United Nations organs, the General Assembly and the Economic and Social Council, have passed numerous resolutions granting this system a central role in United Nations elections;

Whereas Israel has been refused admission to the Asian Group of the United Nations and is therefore denied the rights and privileges of full membership in the United Nations;

Whereas exclusion of Israel violates crucial principles of the United Nations Charter, including the right of states to be treated in accordance with the principle of sovereign equality and the right to vote and participate fully in the United Nations General Assembly;

Whereas the Bureau of every United Nations conference comprises one representative from each group in the United Nations and Israel is therefore denied access to this vital apparatus enjoyed by other United Nations member states;

Whereas on May 30, 2000, Israel accepted an invitation to become a temporary member of the Western European and Others Group at the United Nations;

Whereas Israel's membership in the Western European and Others Group is limited and, as a temporary member, Israel is not allowed to compete for open seats or to run for positions in major bodies of the United Nations, such as the Security Council, or United Nations-affiliated agencies, such as the United Nations Commission on Human Rights;

Whereas Israel is only allowed to participate in limited activities of the Western European and Others Group at the United Nations headquarters and is excluded from discussions and consultations of the Group at the United Nations offices in Geneva, Nairobi, Rome, and Vienna;

Whereas the Western European and Others Group includes Canada, Australia, and the United States;

Whereas Israel is linked to Western European and Others Group member states by strong economic, political, and cultural ties;

Whereas the Western European and Others Group is the only bloc which is not purely geographical but rather comprises countries which share a Western democratic tradition; and

Whereas Israel is a free and democratic country and its voting pattern in the United Nations is consistent with that of the Western European and Others Group member states: Now, therefore, be it

*Resolved*, That it is the sense of the House of Representatives that—

(1) the President should direct the Secretary of State and the United States Permanent Representative to the United Nations to seek an immediate end to the persistent and deplorable inequality experienced by Israel in the United Nations;

(2) United States interests would be well served if Israel were afforded the benefits of full membership in the Western European and Others Group at the United Nations so that it could fully participate in the United Nations system;

(3) consistent with section 405(a) of division C of H.R. 1950, as passed the House of Representatives on July 16, 2003, ''the Secretary of State and other appropriate officials of the United States Government should pursue an aggressive diplomatic effort and should take all necessary steps to ensure the extension and upgrade of Israel's membership in the Western European and Others Group at the United Nations''; and

(4) the Secretary of State should continue to submit to Congress on a regular basis a report which describes actions taken by the United States Government to encourage the Western European and Others Group member states to accept Israel as a full member of their group and describes the responses thereto from the member states.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

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

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my chairman, the gentleman from Illinois (Mr. HYDE), and the ranking member of the committee on International Relations, my good friend, the gentleman from California (Mr. LANTOS), and, most importantly, our leadership for bringing House Resolution 615 to the floor tonight. We could not have chosen a better time to consider this measure in light of the manipulation of the International Court of Justice by those who seek to deny Israel its sovereign right of self-defense, who seek to deny Israel the right to protect itself and her people against the unending attacks launched against it by Palestinian terrorists.

Later this week, we will see further corruption of the United Nations General Assembly by anti-Israel, antisemitic forces as they are expected to bring forth resolutions seeking to force Israel to comply with the nonbinding opinion issued by the International Court of Justice on Israel's security barrier.

□ 2045

This is illustrative of the bias that one of our strongest allies, Israel, faces within the United Nations system; and it further demonstrates how Israel's lack of membership in one of the country groupings of the U.N. places it at a significant disadvantage.

House Resolution 615 seeks to address this problem. It expresses the sense of the House of Representatives that Israel should enjoy full membership in the Western European and Others Group, WEOG, at the United Nations. Simply stated, this resolution seeks to correct the ongoing discrimination and inequality that Israel has been a victim of in the United Nations system.

As a first step toward correcting this wrong, on May 30, 2000, Israel accepted an invitation to become a temporary member of WEOG, which opened the door to Israeli participation in the U.N. Security Council, provided Israel is able to retain its status on the WEOG.

Nonetheless, Israel's membership to the WEOG is severely limited, and every 4 years Israel has to reapply, since its status is only temporary.

Israel is not allowed to present candidacies for open seats in most U.N. bodies, and it is not able to compete for leadership positions in major U.N. organs.

Even its participation in WEOG activities is restricted to U.N. headquarters in New York; and as such, Israel is unable to fully participate in discussions and consultations on a number of critical issues. It is unacceptable that Israel should remain an anomaly in the community of nations only because certain states refuse to allow it to occupy its legitimate place in the Asian group of nations.

As long as the United Nations institutional realliance on the regional system continues, its members are obliged by the principles of its charter to find a solution to the discrimination against Israel. The WEOG states can do so without sacrificing their vital interest. Rather, by admitting Israel, they will gain the addition of another member to the group of democratic states active in and contributing to the international organization system.

The WEOG is the only regional group which is not solely based on geographic considerations. It is composed of a group of states with Western democratic values as a common denominator. Israel's social/political orientation is comparable to that of the WEOG states. Its voting pattern in the United Nations is congruent with that of the WEOG states. It shares a common cultural ideological outlook with these countries, and it is linked to them by strong economic ties.

Mr. Speaker, I am proud to have worked on this resolution with the distinguished ranking member of the Committee on International Relations, the gentleman from California (Mr. LANTOS). This resolution enjoys broad bipartisan support with over 40 cosponsors. It was passed unanimously at both the subcommittee and the full committee markups. Our interests would be well served if Israel were afforded the benefits of full membership to the WEOG. It is time to bring an end to the discrimination that Israel faces in the United Nations system.

As a free nation, Israel deserves our support and that of all democratic countries. I strongly urge my colleagues to support this important resolution.

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

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

Mr. Speaker, I rise in strong support of H. Res. 615, introduced by the gentlewoman from Florida (Ms. ROS-LEHTINEN), my good friend and distinguished colleague. For years, the democratic nation of Israel has been relegated to third-class status at the United Nations. Our resolution seeks to end this outrageous treatment of Israel, and it will ensure that Israel has the same rights and privileges at the United Nations in New York as every other nation in the world.

The procedures of the United Nations are an arcane subject, Mr. Speaker; but it is vital to understand, one fact about that. For a member state to be able to exercise its full rights and privileges at the United Nations, for it to participate fully in all U.N. agencies and activities, it must be a full member of one of the five regional groupings of the U.N. And of the 191 member states in the U.N., only one is not a full member of one of the five regional groups. That one exception is the State of Israel.

Israel's natural geographical home should be in the Asia Group; but that group, which is dominated by hostile Arab states that refuse to recognize the State of Israel, rejects the membership of the region's only democracy, the State of Israel.

This unique and appalling constraint cripples Israel's ability to exercise normal privileges of U.N. membership. The normal privileges are enjoyed by every other member, from most democratic to the most despotic. It precludes Israel from voting in any United Nations body, except the General Assembly. It precludes Israel from running for a seat on the Security Council or any major U.N. affiliated agency, or from otherwise participating fully in the day-to-day work of the United Nations.

To partially address this ability and after years of United States efforts, the regional block known as Western Europe and Others Group, WEOG, granted Israel limited temporary membership 4 years ago; but this junior-grade membership allows Israel to participate in only some of the U.N.'s less important activities.

Democratic Israel clearly deserves to be a full member of the WEOG group. WEOG, unlike any other regional block, is not a geographic designation. It is a political grouping, including countries such as the United States, Canada, Australia, along with all the states of Western Europe.

Does anyone doubt that Israel fully shares the other WEOG states' core commitments to democracy and Western values? In fact, its voting record on almost all issues at the United Nations reflects this common ground with other WEOG states.

Mr. Speaker, it is time for the WEOG group, whose membership roster is a who's who of our closest allies on this planet, to end the policy of discrimination against the State of Israel and to grant Israel full membership. There is simply no excuse for not doing so.

The hypocritical treatment of Israel at the U.N. perhaps tops the list of the many reasons that this crucial world body so often evokes well-deserved cynicism and scorn.

Consider this. At this moment, the thugish Sudanese regime that is responsible for some of the worst violence and ethnic cleansing in the world today sits at the head of the U.N. Human Rights Commission, a body that democratic Israel cannot even aspire to join. Ask the thousands of people in Darfur in the western Sudan who have been driven from their homes into refugee camps by Khartoum-sponsored Arab militias whether this is fair.

Mr. Speaker, a vote for this resolution is a vote for Israel's full participation in the U.N. system, a vote for our own national interest, and a vote for enhanced U.N. credibility. I strongly support this resolution, and I urge my colleagues to do so.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. ENGEL), my good friend and distinguished colleague.

Mr. ENGEL. Mr. Speaker, the United Nations discredits itself once again,

unfortunately, by having one set of rules for Israel and one set of rules for everyone else; and here is but another example of that kind of hypocrisy that unfortunately has permeated the United Nations. We will soon be talking about a ruling by an international court; and when I spoke about that ruling several days ago on the House floor, I said that one set of rules for Israel at the U.N. and one set of rules for everyone else does not help anybody, but just helps to discredit the United Nations.

Now, there are 191 members of the United Nations, as my friend from California has pointed out, and only one of them is given third-class status. Israel has been a member of the United Nations since the founding of the Jewish state in 1948, and yet it has never been allowed to serve on the Security Council of the United Nations, where you have one undemocratic despotic nation after another serving on the Security Council, sitting on the Human Rights Commission, but not democratic Israel.

So what this resolution does is it simply expresses the sense of the House of Representatives in support of full membership of Israel in the Western European and Others Group at the United Nations. As was pointed out, this will enable Israel to serve in all bodies of the United Nations, to have a vote in all bodies of the United Nations, and to serve on the Security Council if it is elected. If the United Nations is to be an effective group, then all nations must be treated equally; and democratic nations such as the state of Israel cannot be allowed to continue as third-status nations in the U.N.

So I urge my colleagues to support this amendment.

Mr. GREEN of Texas. Mr. Speaker, I rise today in support of H. Res. 615.

This resolution expresses this House's support for full membership for Israel in Western European and Other Groups at the United Nations.

Full membership for Israel is long overdue.

Without full membership in a regional group, Israel cannot sit on the Security Council or other key U.N. bodies, and the Arab states have barred its membership in the group it geographically belongs in, the Asian Group.

On May 30, 2000, Israel accepted an invitation to become a temporary member of Western European and Others, WEOG, regional group.

This historic step helped end at least some of the United Nations' discriminatory actions against Israel; however, without full membership, Israel is excluded from much of the U.N's general business that occurs outside of the General Assembly and Israel is not eligible to sit on the Security Council.

As a sovereign, democratic state—the only democratic state in the Middle East—Israel's full participation in the United Nations is an essential right.

Mr. Speaker, I urge the House's full support of this bill.

Mr. ACKERMAN. Mr. Speaker, I rise in support of the resolution and I thank the chairwoman of the Subcommittee on the Middle East and Central Asia for her leadership in bringing H. Res. 615 to the floor. As an original cosponsor of this resolution I am very pleased that the House will, I hope, pass the resolution by an overwhelming, if not unanimous vote.

Israel's isolation at the United Nations puts the lie to claims that Israel is not held to a double standard and demonstrates clearly that many of those urbane diplomats who like to talk about peace and reconciliation cannot even stomach the thought of Israel taking its rightful place at the U.N. While space is reserved and rights are held for such pariah states as junta-led Myanmar, dictator-ruled North Korea, the tyranny of the mullahs in Iran and the Palestinians' own thugocracy, democratic Israel is uniquely isolated at what is supposed to be the forum for all nations to deal with each other on equal terms.

Ironically, every day, because of the hostility and prejudice that precludes Israeli participation in the Asia regional group, the credibility and mission of the United Nations is undermined by exactly those states that call most vigorously for the Arab-Israeli conflict to be resolved in accordance with the will of the United Nations. The stench of this hypocrisy easily reaches Washington all the way from U.N. headquarters in New York City.

The resolution before the House calls for renewed efforts by this Nation to secure for Israel full membership in the Western Europe and Others Group at the U.N. the membership bloc our own country belongs to. Such a step is entirely appropriate given the close ties between Israel and the other nations in the bloc, as well as shared values and belief in democracy that characterizes this group's membership at the UN.

Thanks in large measure to the United States, Israel has, for a short time, been able to enjoy at least partial membership in the WEOG regional group. It is time for this half-measure to be replaced with a lasting and definite full membership. Israel is a country of far greater economic, political and scientific achievement than many of those nations that have obstructed full Israeli participation in the UN. It is more than past time that this grotesque form of discrimination be ended.

I urge Members to show their strong support for Israel and the true ideals of the UN by voting in favor of the resolution.

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

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

The SPEAKER pro tempore (Mr. RENZI). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 615, as amended.

The question was taken.

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

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

The yeas and nays were ordered.

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

## COMMENDING THE GOVERNMENT OF PORTUGAL AND THE PORTUGUESE PEOPLE IN THE EFFORT TO COMBAT TERRORISM

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 688) commending the Government of Portugal and the Portuguese people for their long-standing friendship, stalwart leadership, and unwavering support of the United States in the effort to combat international terrorism, as amended.

The Clerk read as follows:

H. RES. 688

Whereas the United States and Portugal have a long history of consistent friendship and support;

Whereas the Government of Portugal and the Portuguese people have shown tremendous support for the United States in this time of armed conflict;

Whereas Portugal has been a devout, resolute, and steadfast ally of the United States;

Whereas the support of the Government of Portugal and the Portuguese people is of paramount importance to the United States;

Whereas the Government of Portugal and the Portuguese people have committed a full array of their country's resources to fight the terrorist threat all over the world;

Whereas at the request of the United States and within the framework of United Nations Security Council resolutions, Portugal has sent brave soldiers, medical teams, police, flight crews, and other military personnel to Iraq and has continued to authorize the use of Lajes Air Base, in Azores, Portugal, for strategic staging in the War on Terrorism, including the current engagement in Iraq; and

Whereas the democratic principles and ideals that Portugal and the United States share have formed the basis of an enduring friendship which has stood the test of time: Now, therefore, be it

*Resolved,* That the House of Representatives—

(1) is grateful for the support of the people and Government of Portugal;

(2) commends the Government of Portugal and the Portuguese people for their steadfast friendship, resolute leadership, and unwavering support;

(3) commends the bravery and courage of all members of the Portuguese armed forces who have participated in the effort to bring an end to international terrorism; and

(4) expects the unique friendship between the United States and Portugal to continue.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 688. This resolution was introduced by the distinguished gentleman from California (Mr. NUNES). House Resolution 688 commends the government of Portugal and the Portuguese people for their longstanding friendship with the United States and their unwavering support in the effort to combat international terrorism. Portugal has been a resolute and steadfast ally of the United States for many years.

As an important friend and ally, Portugal has recently exercised leadership within Europe in confronting terrorism and the threats of a post-September 11 world. Portugal has sent soldiers, medical teams, police and other personnel to Iraq and has continued to authorize the use of Lajes Air Base in the Azores for strategic staging and other requirements in the global war on terrorism.

Indeed, the government of Portugal and the Portuguese people have committed a significant array of their country's resources to fight the terrorist threat all over the world.

□ 2100

The support of the government of Portugal and the Portuguese people is of paramount importance to the United States, and we would like to recognize that tonight.

Portugal and the people of Portugal deserve to be commended, and I commend the gentleman from California (Mr. NUNES) for his efforts in bringing this resolution to the House floor tonight. I urge the adoption of this resolution.

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

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

Mr. Speaker, I rise in support of H. Res. 688. Mr. Speaker, this important resolution commends the government of Portugal and the people of Portugal for the long-time friendship and support in the war on international terrorism.

I would like to thank my California colleagues, the gentleman from California (Mr. NUNES), the gentleman from California (Mr. POMBO), and the gentleman from California (Mr. CARDOZA) for introducing this important initiative.

Mr. Speaker, the United States and Portugal have shared a long history of friendship and mutual support. I owe a special personal debt of gratitude to Portugal because of my wife, Annette. Portuguese consuls in several European capitals during the second World War extended protections to Jews, including in my own native city of Budapest, Hungary. Portuguese Consul General Branquinho together with the Swedish diplomat Raoul Wallenberg were responsible for saving the life of my wife, Annette, during that period.

Portugal admitted thousands of Jewish refugees during 1940 and 1941 and allowed rescue organization to operate in Lisbon. One of the heroes of the Holocaust was the Portuguese Consul General in Bordeaux, France, Aristides de Sousa Mendes, who issued as many as 10,000 Portuguese transit visas to refugees stranded in France in order that they might cross the Spanish frontier. In spite of the fact that he did not have his country's support for that action at that time, he courageously did the right thing and made a difference in saving the lives of so many potential Holocaust victims.

I am particularly grateful to the current government of Portugal for their steadfast support of the United States in our fight against terrorism. Portugal has not only committed military personnel to fight against terrorism but also medical teams, police and others to assist in this effort.

Portugal, our NATO ally, has authorized our forces to use their air base in the Azores for strategic staging, which is particularly critical in the War on Terrorism.

Portugal is truly a friend who has stepped up to the plate to help the United States and the rest of the civilized community of nations many times and in many ways. We are grateful to have such a strong and steadfast ally, and we have every expectation and desire that the friendship between Portugal and the United States will continue to grow and to flourish for many years to come. I strongly support passage of this legislation. I urge all of my colleagues to do so as well.

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

Ms. ROS-LEHTINEN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. NUNES).

Mr. NUNES. Mr. Speaker, I rise in support of House Resolution 688, which I drafted myself along with my good friends and colleagues, the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. CARDOZA).

The purpose of this House resolution is to thank the Portuguese people for their steadfast support in the War on Terrorism. This is particularly important to me because, being an American of Portuguese decent, I am proud to see our two countries stand shoulder to shoulder in the fight for freedom and democracy. Portugal was there to support the United States from the first hour of terrorism and continues to stand with us in our effort to bring peace and democracy to Iraq.

Thanks to their courageous and valiant leadership, Portugal has continued to help our coalition forces not only in the Middle East but in Africa and Southeast Asia. From working with our intelligence agencies and also to allowing us to use the important Lajes Air Force base in the Azores, Portugal has never wavered when asked to support military missions abroad. In this day and age, the need for such a steadfast partner is key to our Nation's, and the entire free world's, fight against global terrorism.

I would also like to thank the Committee on International Relations, the gentleman from Illinois (Mr. HYDE), the gentleman from California (Mr. LANTOS), and others for taking an interest in this important piece of legislation.

I think it is also appropriate at this time to thank and congratulate now the former Prime Minister Barroso, who has been a steadfast ally of the United States, for his new appointment as head of the EU.

So, with that, Mr. Speaker, I thank the committee members again for their help on this.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. ROYCE).

Mr. ROYCE. Mr. Speaker, I rise in support of House Resolution 688; and I want to just commend my colleague, the distinguished gentleman from California (Mr. NUNES), for his offering up this amendment.

As chairman of the Subcommittee on Africa of the Committee on International Relations, I can attest to the importance of Portugal engagement not only in Africa on the War on Terror but also, as a member of the Committee on International Relations, we have seen their engagement in Europe and in Southeast Asia. They have been at the vanguard of confronting terrorism and confronting the threats that we in the entire world community have faced post-September 11. They have continued to allow the United States access and use of the Lajes Air Base, and we are deeply appreciative of that but also certainly very appreciative of the friendship that Portugal has shown the United States.

We want to commend the people of Portugal and, at the same time, we also want to recognize in this resolution the many contributions made to our Nation by the Portuguese-American population here in the United States.

As we focus on Iraq, we again also appreciate the Portuguese forces that serve there, the military forces, the medical personnel, the police that have been such an asset to us.

So, with that said, in conclusion, I would like to again thank the government of Portugal and the Portuguese people for their friendship, their support as an ally and also for their leadership in Europe and worldwide. I urge the adoption of this resolution.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. MARIO DIAZ-BALART).

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, during the 60th anniversary of the U.S. Air Base in the Azores, the gentleman from California (Mr. NUNES) led the Congressional delegation to that event. He did a masterful job.

At that time, the gentleman from California (Mr. CARDOZA) was also involved in that delegation; and I was

privileged to join these two gentlemen in that trip. I was able to see firsthand the incredible cooperation that exists between the United States and Portugal. Also, the respect, the friendship, the close ties that the people of Portugal have with us here in the United States.

I am incredibly grateful and all of us have to be incredibly grateful for the way that Portugal has been such a steadfast ally of the United States throughout many, many years. But particularly now in these very difficult times in this war against international terrorism, they have been strong allies. They have been courageous allies.

I am extremely grateful to the gentlewoman from Florida (Ms. ROS-LEHTINEN) and also in particular to the gentleman from California (Mr. NUNES), the gentleman from California (Mr. CARDOZA), and the gentleman from California (Mr. POMBO) for this opportunity to thank the people of Portugal for their leadership, for their courage, for their friendship in these very difficult times.

When we need them the most, the people of Portugal said, we are here. We cannot forget. I want to thank these wonderful Members of Congress and the gentleman from California (Mr. LANTOS) for giving us the opportunity to also say ''thank you.''

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

Ms. ROS-LEHTINEN. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FRANKS of Arizona). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 688, as amended.

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

A motion to reconsider was laid on the table.

## NORTHERN UGANDA CRISIS RESPONSE ACT

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2264) to require a report on the conflict in Uganda, and for other purposes.

The Clerk read as follows:

S. 2264

*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 ''Northern Uganda Crisis Response Act''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) The United States and the Republic of Uganda enjoy a strong bilateral relationship and continue to work closely together in fighting the human immunodeficiency virus and acquired immune deficiency syndrome (''HIV/AIDS'') pandemic and combating international terrorism.

(2) For more than 17 years, the Government of Uganda has been engaged in a conflict with the Lord's Resistance Army that has inflicted hardship and suffering on the people of northern and eastern Uganda.

(3) The members of the Lord's Resistance Army have used brutal tactics during this conflict, including abducting and forcing individuals into sexual servitude, and forcing a large number of children, estimated to be between 16,000 and 26,000 children, in Uganda to serve in such Army's military forces.

(4) The Secretary of State has designated the Lord's Resistance Army as a terrorist organization and placed the Lord's Resistance Army on the Terrorist Exclusion list pursuant to section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)).

(5) According to Human Rights Watch, since the mid-1990s the only known sponsor of the Lord's Resistance Army has been the Government of Sudan, though such Government denies providing assistance to the Lord's Resistance Army.

(6) More than 1,000,000 people have been displaced from their homes in Uganda as a result of the conflict.

(7) The conflict has resulted in a lack of security for the people of Uganda, and as a result of such lack, each night more than 18,000 children leave their homes and flee to the relative safety of town centers, creating a massive ''night commuter'' phenomenon that leaves already vulnerable children subject to exploitation and abuse.

(8) Individuals who have been displaced by the conflict in Uganda often suffer from acute malnutrition and the mortality rate for children in northern Uganda who have been displaced is very high.

(9) In the latter part of 2003, humanitarian and human rights organizations operating in northern Uganda reported an increase in violence directed at their efforts and at civilians, including a sharp increase in child abductions.

(10) The Government of Uganda's military efforts to resolve this conflict, including the arming and training of local militia forces, have not ensured the security of civilian populations in the region to date.

(11) The continued instability and lack of security in Uganda has severely hindered the ability of any organization or governmental entity to deliver regular humanitarian assistance and services to individuals who have been displaced or otherwise negatively affected by the conflict.

**SEC. 3. SENSE OF CONGRESS.**

It is the sense of Congress that the Government of the United States should—

(1) work vigorously to support ongoing efforts to explore the prospects for a peaceful resolution of the conflict in northern and eastern Uganda;

(2) work with the Government of Uganda and the international community to make available sufficient resources to meet the immediate relief and development needs of the towns and cities in Uganda that are supporting large numbers of people who have been displaced by the conflict;

(3) urge the Government of Uganda and the international community to assume greater responsibility for the protection of civilians and economic development in regions in Uganda affected by the conflict, and to place a high priority on providing security, economic development, and humanitarian assistance to the people of Uganda;

(4) work with the international community, the Government of Uganda, and civil society in northern and eastern Uganda to develop a plan whereby those now displaced may return to their homes or to other locations where they may become economically productive;

(5) urge the leaders and members of the Lord's Resistance Army to stop the abduction of children, and urge all armed forces in Uganda to stop the use of child soldiers, and seek the release of all individuals who have been abducted;

(6) make available increased resources for assistance to individuals who were abducted during the conflict, child soldiers, and other children affected by the conflict;

(7) work with the Government of Uganda, other countries, and international organizations to ensure that sufficient resources and technical support are devoted to the demobilization and reintegration of rebel combatants and abductees forced by their captors to serve in non-combatant support roles;

(8) cooperate with the international community to support civil society organizations and leaders in Uganda, including Acholi religious leaders, who are working toward a just and lasting resolution to the conflict;

(9) urge the Government of Uganda to improve the professionalism of Ugandan military personnel currently stationed in northern and eastern Uganda, with an emphasis on respect for human rights, accountability for abuses, and effective civilian protection;

(10) work with the international community to assist institutions of civil society in Uganda to increase the capacity of such institutions to monitor the human rights situation in northern Uganda and to raise awareness of abuses of human rights that occur in that area;

(11) urge the Government of Uganda to permit international human rights monitors to establish a presence in northern and eastern Uganda;

(12) monitor the creation of civilian militia forces in northern and eastern Uganda and publicize any concerns regarding the recruitment of children into such forces or the potential that the establishment of such forces will invite increased targeting of civilians in the conflict or exacerbate ethnic tension and violence; and

(13) make clear that the relationship between the Government of Sudan and the Government of the United States cannot improve unless no credible evidence indicates that authorities of the Government of Sudan are complicit in efforts to provide weapons or other support to the Lord's Resistance Army.

**SEC. 4. REPORT.**

(a) REQUIREMENTS.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall submit a report to the appropriate congressional committees on the conflict in Uganda.

(b) CONTENT.—The report required by subsection (a) shall include a description of the following:

(1) The individuals or entities that are providing financial and material support for the Lord's Resistance Army, including a description of any such support provided by the Government of Sudan or by senior officials of such Government.

(2) The activities of the Lord's Resistance Army that create obstacles that prohibit the provision of humanitarian assistance or the protection of the civilian population in Uganda.

(3) The practices employed by the Ugandan People's Defense Forces in northern and eastern Uganda to ensure that children and civilians are protected, that civilian complaints are addressed, and that any member of the armed forces that abuses a civilian is held accountable for such abuse.

(4) The actions carried out by the Government of the United States, the Government

of Uganda, or the international community to protect civilians, especially women and children, who have been displaced by the conflict in Uganda, including women and children that leave their homes and flee to cities and towns at night in search of security from sexual exploitation and gender-based violence.

(c) FORM OF REPORT.—The report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

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

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

GENERAL LEAVE

Mr. ROYCE. 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 S. 2264.

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

There was no objection.

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

We are urging support for S. 2264, the Northern Uganda Crisis Response Act, and we are doing that because for the past 18 years Northern Uganda has been embroiled in a particularly vicious conflict, one which pits Ugandan President Yoweri Museveni's efforts at governance against a group called the Lord's Resistance Army. And the Lord's Resistance Army, designated as a terrorist organization by the Secretary of State, moves in small, well-coordinated groups from bases in southern Sudan, launching brutal attacks against civilian populations. They launch these attacks at night.

Members of the Lord's Resistance Army have no clear political agenda; and, frankly, they make no attempts to hold territory. But what they do do and have done for these last 18 years is to murder and rape and loot with impunity.

The devastation inflicted upon the civilian population during this war cannot be overstated. Frankly, it is unknown how many people have been killed, but we do know that more than 1.2 million people, 80 percent of the local population, have been displaced by the Lord's Resistance Army. Over 1.8 million people depend on food aid in an area that once served as the breadbasket of Uganda, and acute malnutrition of children under the age of 5 has risen 30 percent since December, 2002.

Humanitarian operations have been severely hampered by the increasingly tenuous security situation there in Northern Uganda. Aid convoys regularly come under attack; and, according to the United Nations, they can now only deliver materials under heavy military escort. Up to 90 percent of the schools in affected districts have been closed.

The HIV/AIDS prevalence rate in the Gulu District, a district particularly hard-hit by the crisis, is 30 percent, while the national average is just 5 percent. Many of us are aware of the progress made under President Museveni in fighting HIV/AIDS nationwide in Uganda where it has been reduced.

□ 2115

But not in this district where the Lord's Resistance Army operates at night.

Perhaps the most heart-wrenching aspect of this conflict has been the impact it has had on the children. Up to 20,000 children have been abducted since the start of this conflict. Many have been killed while others have been beaten and tortured and maimed and forced to be soldiers or sexual slaves.

Between 20,000 to 30,000 other children are forced every evening to seek refuge on the streets of Gulu and Pader and Kitgum. They walk up to 15 kilometers from their villages to spend the night sleeping under grossly overcrowded tents on concrete floors, before giving up at dawn to make the return to their village. These children have never known peace. They have never known stability. They have never had the luxury of being a child and experiencing the joys of childhood.

According to Jan Egeland, the United Nations Under Secretary General for Humanitarian Affairs, the conflict in northern Uganda ''is characterized by a level of cruelty seldom seen and few conflicts rival it for sheer brutality.'' Given the horrific nature of the crimes perpetrated by the Lord's Resistance Army, I have no doubt that that statement is true. Despite this, the magnitude of the crisis is not well grasped outside of the region, and international response, frankly, has been underwhelming.

The Northern Ugandan Crisis Response Act, this bill, draws much-needed attention to the forgotten war in northern Uganda. It reaffirms the strong relationship which exists between the United States and Uganda while recognizing that the government of Uganda's military efforts to resolve the conflict have not effectively ensured the security of civilian populations.

The bill calls on the government of Uganda to improve the level of professionalism within the Ugandan People's Defense Force and to permit international human rights monitors to establish a presence in northern and eastern Uganda.

The bill acknowledges that, according to Human Rights Watch, the government of Sudan has been the only known supporter of the Lord's Resistance Army since the early 1990s. To this end, it calls on the administration to investigate the sources of support for the Lord's Resistance Army and to make it clear to the government of Sudan that normalization of relations will not be possible if credible evidence against these sources again emerges.

S. 2264 asserts that the United States should work vigorously to support peace initiatives in northern Uganda. It urges the United States Government, the international community, and the government of Uganda to make resources available to meet immediate relief and development needs and to provide civilian protection and to develop reintegration plans for displaced persons to integrate them back into society, and for combatants and for abductees and to provide support in general for civil society.

Finally, the bill requires the Secretary of State to submit a report to the Congress which describes not only the sources of support for the Lord's Resistance Army but also the activities undertaken by the Lord's Resistance Army which obstruct humanitarian assistance, the practices employed by the UPDF to ensure civilian protection, and to punish soldiers who are themselves guilty of abuse, and the actions taken by the Ugandan government, the United States and the international community to ensure civilian protection.

This bill is the result of a collaborative effort and enjoys strong bipartisan, bicameral support; and we thank the gentleman from Wisconsin in the Senate, Mr. FEINGOLD, for introducing this timely and important measure; and here on the House floor, we urge full support.

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

Mr. LANTOS. Mr. Speaker, I yield myself such time as I might consume, and I rise in strong support of this legislation.

First, I want to commend my good friend and colleague, the gentleman from California (Mr. ROYCE), for his leadership on this issue, and indeed on so many other matters.

Mr. Speaker, the terrorist organization known as the Lord's Resistance Army has turned northern Uganda into a living hell for the Acholi people, and particularly their children, for years now. Under the ruthless and delusional leadership of Joseph Kony, this terrorist organization maintains a vicious hit-and-run guerrilla war with the Ugandan government where the overwhelming casualties are the Acholi people, particularly kidnapped boys and girls.

While Kony invokes the name of God in his unholy war against innocent civilians, it has been the backing of the Sudanese government in Khartoum that has kept this war going for so many years.

Several months ago, our committee hosted a young woman, Grace Akallo, who was abducted by this terrorist group at age 13 and was forced to live as a sex slave. As part of her induction,

she, along with other girls, were forced to beat an old woman to death. After living that nightmare, she then was taken to southern Sudan, trained by the Arabs, as she called them, and forced to fight for Khartoum against the Sudanese People's Liberation Army.

Grace escaped this terrorist group and the Sudanese forces, and on her own made her way to a safe place in Uganda. She will be going to school next year here in the United States. However, as moving and heroic as Grace's story is, it is the extreme exception. The more common and familiar story for a young Acholi girl captured by this terrorist outfit is rape, other physical brutality, slavery, and a broken life.

Mr. Speaker, with approval of this resolution today, Congress will stand fast in the face of the horrors perpetrated directly or indirectly by Khartoum by demanding an end to the conflict in northern Uganda. We will also strongly signal to the administration and to the international community that every possible step must be taken to protect peace and the security of these children.

Mr. Speaker, I urge all of my colleagues to support this important bill.

Mr. Speaker, we have no further speakers on this side, and I yield back the balance of my time.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume, and I will conclude.

The conflict in northern Uganda does not receive much attention in the press; and, frankly, it does not receive the attention it deserves.

Today, the U.S. Congress is speaking out, going on record in saying that we have an interest in helping to stop the savagery that is devastating so many lives.

I want to just take a moment and thank my colleague, the gentleman from California (Mr. LANTOS), for his support on this resolution, but wider than that, for his leadership on so many of the most vexing and troublesome of gross human rights violations around the world which he has consistently brought to the world's attention.

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

The SPEAKER pro tempore (Mr. FRANKS of Arizona). The question is on the motion offered by the gentleman from California (Mr. ROYCE) that the House suspend the rules and pass the Senate bill, S. 2264.

The question was taken.

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

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

The yeas and nays were ordered.

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

## DEPLORING MISUSE OF INTERNATIONAL COURT OF JUSTICE BY UNITED NATIONS GENERAL ASSEMBLY FOR POLITICAL PURPOSE

Mr. PENCE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 713) deploring the misuse of the International Court of Justice by a majority of the United Nations General Assembly for a narrow political purpose, the willingness of the International Court of Justice to acquiesce in an effort likely to undermine its reputation and interfere with a resolution of the Palestinian-Israeli conflict, and for other purposes, as amended.

The Clerk read as follows:

H. RES. 713

Whereas the Israeli people have suffered through a three-year campaign of terror that has included suicide bombings, snipers, and other attacks on homes, businesses, and places of worship and has resulted in the murder of more than 1,000 innocent people since September 2000;

Whereas more than 50 United States citizens have been killed and more than 80 United States citizens injured by Palestinian terrorists in Israel, the West Bank, and Gaza since 1993;

Whereas President George W. Bush said in October 2003 regarding Israel's right to self-defense that ''Israel must not feel constrained in terms of defending the homeland'';

Whereas international law, as expressly recognized in Article 51 of the United Nations Charter, guarantees all nations an inherent right to self-defense;

Whereas United Nations Security Council Resolution 1373 (2001), relating to international cooperation to combat threats to international peace and security caused by terrorist acts, and statements by representatives of other countries at that time, make clear that Article 51 of the United Nations Charter applies to self-defense against actions by terrorist groups against the civilian population of any country;

Whereas a security barrier, capable of being modified or removed, is being constructed by Israel in response to an ongoing campaign of terror against its people and has resulted in a dramatic decline in the number of successful terrorist attacks;

Whereas on December 8, 2003, the United Nations General Assembly adopted, through a plurality rather than a majority vote of member nations, Resolution ES–10/14 which requested the International Court of Justice (ICJ) to render an opinion on the legality of the security barrier;

Whereas the United States, Australia, Belgium, Cameroon, Canada, the Czech Republic, the Federated States of Micronesia, France, Germany, Greece, Ireland (for itself and in addition on behalf of the Member States and Acceding States of the European Union), Italy, Japan, the Marshall Islands, the Netherlands, Norway, Palau, the Russian Federation, Spain, Sweden, Switzerland, and the United Kingdom submitted objections on various grounds against the ICJ hearing the case or expressing concerns about the advisability of the publication of an advisory judgment;

Whereas a June 30, 2004, decision of a panel of the Israeli Supreme Court, headed by its President and sitting as a High Court of Justice, called on the Government of Israel to take Palestinian humanitarian concerns further into account in the construction of the barrier, even if doing so resulted in greater security risk to Israeli citizens, and accordingly required the Government to alter the route of a specific portion of the barrier near Jerusalem in order to accommodate Palestinian humanitarian concerns;

Whereas the Government of Israel immediately stated that it would respect the decision of its High Court of Justice and has taken action to implement that decision;

Whereas the Government of Israel has expressed its commitment that the security barrier is temporary in nature and will not prejudice any final status issues, including final borders;

Whereas on July 9, 2004, the ICJ said in a non-unanimous, non-binding advisory judgment that Israel's security barrier, to the degree it was built outside the pre-June 1967 borders, was illegal and should be dismantled, and that Article 51 of the United Nations Charter did not apply to Israeli actions in self-defense with respect to violence emanating from the West Bank;

Whereas on July 11, 2004, less than two days after the ICJ's advisory judgment, Israeli civilians were murdered by Palestinian terrorists;

Whereas the Palestinians, along with other parties and states, may attempt to use the ICJ's advisory judgment to advance their positions on issues committed to negotiations between the Israelis and Palestinians by advancing resolutions in the United Nations General Assembly, the Security Council, or elsewhere calling for the removal of the barrier and for the imposition of sanctions to force Israel to comply with the advisory judgment; and

Whereas the administration of President Bush has reiterated its position that the ICJ should not have agreed to decide a political issue of this nature that should, rather, be resolved through the Roadmap process leading to a negotiated agreement between Israel and the Palestinians: Now, therefore, be it

*Resolved,* That the House of Representatives—

(1) reaffirms its steadfast commitment to the security of Israel and its strong support of Israel's inherent right to self-defense;

(2) condemns the Palestinian leadership for failing to carry out its responsibilities under the Roadmap and under other obligations it has assumed, to engage in a sustained fight against terrorism, to dismantle the terrorist infrastructure, and to bring an end to terrorist attacks directed at Israel;

(3) calls on Palestinians and all states, in the region and beyond, to join together to fight terrorism and dismantle terrorist organizations so that progress can be made toward a peaceful resolution of the Israeli-Palestinian conflict;

(4) deplores—

(A) the misuse of the International Court of Justice (ICJ) by a plurality of member nations of the United Nations General Assembly for the narrow political purpose of advancing the Palestinian position on matters Palestinian authorities have said should be the subject of negotiations between the parties;

(B) the July 9, 2004 advisory judgment of the ICJ, which seeks to infringe upon Israel's right to self-defense, including under Article 51 of the Charter of the United Nations, and which projects a message of international indifference to the safety of Israeli citizens that can only be detrimental to prospects of achieving a negotiated peace;

(5) regrets the ICJ's advisory judgment, which is likely to undermine its reputation and interfere with a resolution of the Palestinian-Israeli conflict;

(6) commends the President and the Secretary of State for their leadership in marshaling opposition to the misuse of the ICJ in this case;

(7) calls on members of the international community to reflect soberly on—

(A) the steps taken by the Government of Israel to mitigate the impact of the security barrier on Palestinians, including steps it has taken by order of its High Court of Justice, without being required to do so by the ICJ; and

(B) the damage that will be done to the ICJ, to the United Nations, and to individual Israelis and Palestinians, by actions taken under color of the ICJ's advisory judgment that interfere in the Roadmap process and impede efforts to achieve progress toward a negotiated settlement between Israelis and Palestinians; and

(8) Urges all nations to join the United States in international fora to prevent the exploitation of the ICJ's advisory judgment for political purposes.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana (Mr. PENCE) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from Indiana (Mr. PENCE).

GENERAL LEAVE

Mr. PENCE. 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. Res. 713, the resolution under consideration.

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

There was no objection.

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

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

Mr. PENCE. Mr. Speaker, we come tonight just almost 1 week after truly a dark day in the history of international justice and in the course of this debate and I trust in the course of this Congress' deliberations over H. Res. 713, deploring the misuse of the International Court of Justice by a plurality of the United Nations General Assembly for a narrow political purpose. I hope that we will have the opportunity to elaborate the genuine significance of the decision by the International Court of Justice relative to the construction of a security fence by the government of Israel.

I intend in the immediate here, before I make any extensive remarks, to yield to my superior and a woman without whose leadership on this issue we would not be here tonight; but let me say by way of context, Mr. Speaker, that when by a 14 to 1 decision the International Court of Justice condemned the construction of a wall being built by Israel and described Israel as an occupying power in occupied Palestinian territory, it was most assuredly a dark day and a day of disgrace for the International Court of Justice.

Mr. Speaker, it is my profound privilege to yield such time as she may consume to the gentlewoman from Florida (Ms. ROS-LEHTINEN), the chairwoman of the Subcommittee on the Middle East and Central Asia, a woman who is not only a distinguished member of this institution, but perhaps one of the most clarion voices in America on behalf of our precious alliance with the people and the nation of Israel.

Ms. ROS-LEHTINEN. Mr. Speaker, I thank my good friend, the gentleman from Indiana (Mr. PENCE), for the undeserved praise and for his nice demeanor in yielding me such time in the beginning of the discussion on this important resolution before us tonight.

I rise in strong support of H. Res. 713, a resolution deploring the misuse of the International Court of Justice by the Palestinians. I want to commend the leadership for moving this measure expeditiously to the floor, and I thank the gentleman from Indiana (Mr. PENCE) for his efforts in making this a reality tonight.

I am proud to be an original cosponsor, Mr. Speaker, and I urge my colleagues to vote in favor of this as a sign of our displeasure with the politicization of the International Court of Justice for Palestinian terrorist purposes.

□ 2130

Mr. Speaker, I wish that there were no need for such a resolution tonight. I wish that innocent civilians were not routinely murdered and injured by Palestinian terrorists inside of Israel. Yet those responsible for these painful, agonizing injuries celebrate their terror with virtual impunity from the international community as they manipulate mechanisms such as the International Court of Justice to rule in their favor.

As Hamas, Islamic Jihad, and Arafat's Fatah said in a joint statement following the advisory opinion of the International Court of Justice, ''We salute the court's decision. This is a good step in the right direction.'' For Palestinian terrorists and their supporters, the door has been further opened.

This past Sunday, less than 2 days after this deplorable decision by the International Court of Justice, this advisory opinion, there was an explosion at a Tel Aviv bus stop which injured 32 innocent civilians and killed one young woman.

Among those injured was Saami Masrawa, an Israeli Arab who leads an Arab-Jewish friendship group in the Israeli area. Saami Masrawa had previously participated in a demonstration opposing the security fence. But after Sunday's bombing he recognizes the value of Israel's security barrier, and he has publicly stated, ''I will now be for it and form an organization in favor of it.''

Mr. Speaker, the barrier is not the issue. Terrorism and the Palestinian's addiction to death are the problems. They must find a leadership free from this kind of terror, free from corruption, free from the idea that terrorism will achieve its political objectives. The notion that terrorism is a legitimate form of interaction with Israel must be abandoned forever.

The construction of the security barrier must be understood as a measured response by Israel to the Palestinians' refusal to abandon terrorism and to surrender its use as a strategy. It is a sign that all Israelis demand that the Palestinians change their ways and make this change now.

Across the political spectrum, Israelis support the construction of the barrier as a way to ensure the safety of the Israeli people and of the nation itself.

It is appalling to see how the United Nations forced this recent judgment by the International Court of Justice. Not only did the issue of the nonbinding opinion last week state that Israel should remove its security fence, but the judges placed into question Israel's right to defend herself.

My colleagues, this right of sovereign nations to provide for its security and that of its people, and to defend against threats against it, is a right accorded to all nations. Unfortunately, the recent opinion seems to draw an exception when it comes to Israel. This is outrageous.

The judges of the Court added insult to injury by suggesting that this basic right of all sovereign nations did not apply because Palestinian terror groups are subnational actors; that is, not nation states.

This reference further minimizes the brutal and abhorrent acts committed by Palestinian terrorists against innocent Israelis. It undermines the actions taken by the United Nations following the terrorist attacks against our own Nation on September 11. It emboldens the terrorists to intensify their brutality and violence against free democratic nations such as Israel and the United States.

Mr. Speaker, it is clear from this process that the International Court of Justice has become politicized, and it is manipulated by the Palestinians for their own evil purposes.

This resolution that I had the pleasure of drafting with my colleagues on the Committee on International Relations, especially the gentleman from Indiana (Mr. PENCE), addresses this critical issue. It underscores the security barrier is necessary. Israel has the responsibility to protect its people, and the fence has proven to be successful in doing so.

No nation, no international body can claim a right to act in judgment over Israel's sovereign right to protect her people. That the Palestinians of all people question the inherent right of self-defense of Israel from their very tactics of terror is absurd and even Orwellian. The very people launching the attacks against Israel are saying that Israel cannot and should not defend herself.

This judgment by this International Court of Justice is an injustice to

Israel. It is a dishonor to close to 1,000 innocent victims of Palestinian violence since 2000. I call on my colleagues and all Democratic nations to join together to prevent this perpetuation of injustice.

I want my colleagues to look at this poster. I call on our allies and partners, as they consider upcoming resolutions at the U.N. General Assembly seeking to impose the ruling on Israel, to think about the young faces, the old faces printed here on this poster. These are just some of the victims of Palestinian terrorism: babies, middle-aged, young, older Israelis, all innocent victims of Palestinian terrorism.

I want our allies and friends to think of Assaff Tzur. This was a 17-year-old Israeli boy who was just recently murdered, so recently that his name is not on this poster. He was killed in a bus bombing on March 5, 2003, on his way back from school.

I met with the father today of Assaff, as well as with other survivors of terror attacks and with families of Israeli victims of Palestinian terrorism. There was one common theme. There were mothers and fathers and sisters and brothers, and they said the security barrier could have helped prevent the murder of their daughters, sons, sisters, brothers, grandchildren, fathers and mothers.

In the case of Assaff Tzur, the suicide bomber who murdered him and 15 others on March 5, 2003, today would not have been able to cross into Israel to carry out this attack thanks to the border that stands today. Today, there is a security barrier that prevents terrorists from crossing into that section of Haifa and would have prevented the murder of Mr. Assaff Tzur, 17 years of age.

I think this reality summarizes the need for an overwhelming vote in favor of the resolution of the gentleman from Indiana (Mr. PENCE), House Resolution 713. Let us send a clear message to the international community of where we stand as a nation. We call on them to side with us and with all democratic nations to side with the victims of terrorism, these faces, and not with the terrorists. The hypocrisy must end. Israel must be allowed to protect herself and remain safe from this kind of terrorism once and for all.

I thank the gentleman from Indiana (Mr. PENCE) for calling attention to this atrocity, and I ask my colleagues to vote ''yes'' on the Pence resolution before us tonight.

Mr. PENCE. Mr. Speaker, I yield myself such time as I may consume to thank the gentlewoman for her passion and her leadership.

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

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of this all-important resolution.

First, I want to pay tribute to my good friend, the gentleman from Indiana (Mr. PENCE), for taking the leadership on this all-important issue, and to my good friend, the gentlewoman from Florida (Ms. ROS-LEHTINEN), for her powerful, persuasive, passionate statement. I also want to thank, on our side, the gentlewoman from Nevada (Ms. BERKLEY), for her leadership on this issue, and our Democratic whip, the gentleman from Maryland (Mr. HOYER), for his passionate dedication in crafting this legislation.

Mr. Speaker, last Friday, the International Court of Justice ruled that the security fence being constructed by Israel was a violation of international law and called for its dismantlement. Mr. Speaker, I traveled across that fence, and if I had not been persuaded prior to my physical inspection of the fence that it is a desperately needed security measure, my trip along that fence convinced me forever.

Just ask yourself how you would feel if in a neighboring community or across the street there are terrorist gangs who systematically come over to your side and blow up restaurants, places of worship, offices, stores, every facility conceivable. Bus stops. Just anyplace where they can kill innocent human beings. You would be in favor of building a security fence. And the ultimate hypocrisy of this International Court of Justice's decision literally turns my stomach.

This ruling was a perversion of justice that infringes on Israel's inherent and basic right of self-defense, and it willfully and cynically ignores Israel's recent success in reducing terrorism, thanks mainly to its security fence.

The International Court favored the suicide bombers over their innocent victims when they issued this mindlessly politicized decision. They only succeeded in severely diminishing their stature and authority, which I deeply regret.

Let me illustrate, Mr. Speaker. The security fence brought significant relief to the innocent men, women and children who are blown up by terrorists. From September 2000, when the intifada broke out, through 2003, there were more than 80 suicide bombings with Israeli targets. This year, with the fence now playing an important deterrent role, there have been only four. Now, one is too much, but there is a dramatic reduction from that vast number of successful suicide bombings to the much smaller number today.

Does this success mean that suicide bombers are giving up? Of course not. But Israel was successful in preventing some 58 suicides bombing attempts within the West Bank just in the last 6 months. The main reason is that the fence is giving Israeli security forces more time to react and to prevent terrorist attacks.

The record in Gaza, Mr. Speaker, is even better. With the help of the security fence, there has been only one deadly suicide bombing that originated from there in recent years.

Do the judges of the International Court care a whit for the well-being of the average Israeli citizen? Regrettably, the evidence suggests that the majority of them clearly do not. Mr. Speaker, this International Court decision sends a message, and here I quote from the resolution, that there is an international indifference to the safety of the citizens of Israel. This is not only morally offensive, it is potentially politically disastrous for the very feeble peace process.

□ 2145

How are Israelis supposed to have the confidence to make peace if the international community that so enthusiastically urges them to make concessions is so callous as to whether they live or die?

Mr. Speaker, the international court's opinion highlights the dangers of an international court dealing in abstractions without full information or full briefing from the parties involved. In the first place, Mr. Speaker, the court should never have taken up this case. In the U.N. General Assembly, the resolution passed with support from less than a majority of members of the General Assembly. And during the proceedings, the United States and many of our European friends objected to the court's consideration of this case. But the court did not heed prudence. Instead, it eagerly embraced recklessness and injustice.

The court did not take into account the fence as it is. The court took its decision and wrote its judgment deliberately oblivious to the fact that the Israeli Supreme Court was adjudicating cases about the fence. Indeed, the Israeli Supreme Court has considered challenges by Palestinians on the routing of the fence and has obligated the Israeli military to relocate the fence to take into concern more fully the humanitarian needs of the Palestinians. Indeed, Israel's Supreme Court actually revoked military orders that had been issued, a virtually unprecedented step.

And unlike the international court, the Israeli Supreme Court has the power to enforce judgments. Despite the understandable controversy that the Israeli Supreme Court's decision provoked in Israel, understandable because it will cost Israeli lives, the Israeli government immediately announced that it will comply with the decision of its own Supreme Court. In fact, implementation has already begun.

Mr. Speaker, Israel is the only state in the Middle East where an Arab can take his government to court and stands a good chance of winning. But, Mr. Speaker, the language of the international court's opinion suggests that Israel has no right of self-defense although it clearly has that right under article 51 of the U.N. charter against terrorist groups that kill innocent civilians.

I fully support Israel's right to build a fence to protect itself from the plague of terrorism, and I call on our

administration and all members of the U.N. Security Council to reject any effort to look for Security Council validation for this repugnant international court ruling should such a misguided effort be made.

Mr. Speaker, I strongly support the resolution. I urge all of my colleagues to do likewise.

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

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

In the last 4 years, Palestinian terrorists have attacked Israel's buses, cafes, discos and pizza shops, murdering over 1,000 innocent men, women and children. Despite this unprecedented savagery, as former Prime Minister Benjamin Netanyahu wrote in the New York Times earlier this week, the International Court of Justice's 60-page opinion mentions terrorism only twice, and only in citations of Israel's own position on the fence.

This court has become a mockery of justice and an international disgrace.

Mr. Speaker, it is my privilege to yield 3 minutes to my colleague, the gentleman from Indiana (Mr. SOUDER), another advocate of our strong and historic relationship with a free and democratic Israel.

Mr. SOUDER. I thank my colleague from Indiana for his leadership and emerging as a strong spokesman for the State of Israel and also my colleague from California (Mr. LANTOS) who has crusaded for years and has been a personal example to many of us in standing up to the persecution of Jews throughout the world.

This week, the International Court of Justice, under dubious jurisdiction, ruled that Israel's security fence was illegal. In essence, the ruling declares that Israel has no right whatsoever to defend itself, protect its people, or to live at peace. Israel did not want to build a fence. I am sure that they would have preferred to spend the time and money on something else. Unfortunately, terrorist attacks and an unwillingness or inability by the Palestinian Authority to rein in those terrorists forced Israel to construct the fence.

Whereas the Palestinian Authority has been unsuccessful, the fence has proven to be effective in combating the waves of homicide bombers that once flooded Israel with death and destruction. The number of successful attacks has fallen significantly. Innocent lives have been saved.

The international court does not seem to care about saving lives. It would rather assist the terrorists. It would rather promote religious bigotry. It would prefer that Israel throw its hands in the air and surrender to certain annihilation. Before, during and after the ICJ case, Israel has borne the brunt of unmitigated hatred from the world community. Only Israel is at fault, only Israel kills, only Israel is intransigent on the peace process.

How many innocent Israelis have to be killed while riding on a bus, sitting in a cafe, or walking down the street? Too many to count. Who refuses to stop terrorist organizations such as Hamas and Hezbollah? The Palestinian Authority's inaction is a resounding refusal.

Rather than waiting for the Palestinian Authority to do something, Israel has decided to protect children walking to school, mothers shopping for groceries, and commuters riding the bus to work. No one questions our right to protect our citizens, but apparently the ICJ believes convenience for the Palestinians trumps the right of the State of Israel to protect its citizens.

The international community has blinded itself to the criminal and terrorist activities of Israel's neighbors and the residents of the West Bank and Gaza Strip. There has been no condemnation of homicide bombers. There has been no condemnation of persecution of religious minorities in areas controlled by the Palestinian Authority. There is no condemnation of Arab treatment of Palestinians in other Middle Eastern countries. Only Israel is singled out for criticism.

The fact that Israel alone is criticized for so-called human rights violations and for the persecution of Palestinian Arabs shows, in my opinion, that religious bigotry rather than a true sense of justice and fairness is what has been driving this issue. A just and fair examination would question where millions of dollars in aid given to alleviate Palestinian poverty has gone. A truthful assessment would also recognize Israel as a democracy in sea of autocratic states. A balanced portrait of the situation would show that Israel's Arab minority enjoys full citizenship in Israel. Can the same be said of Jews outside Israel? Can the same be said of Palestinian Arabs living in other Middle Eastern states?

The International Court of Justice has ruled that they would prefer a Middle East without Israel. They would rather see a democratic state where all people can live, work and practice their religion disappear from the face of the Earth. Most assuredly if the security fence is dismantled, Israel's right to self-defense will be dismantled right along with it. Do not be fooled by the enemies of Israel. They will not be satisfied by the dismantling of the fence. They will only be satisfied when Israel is gone.

Mr. LANTOS. Mr. Speaker, I am very pleased to yield 4 minutes to the gentlewoman from Nevada (Ms. BERKLEY), who has been the leader on this issue on our side.

Ms. BERKLEY. Mr. Speaker, I rise today in strong support of this resolution and wish to thank Chairman HYDE and Ranking Member LANTOS for their extraordinary leadership on this issue. I would also like to thank the gentleman from Maryland (Mr. HOYER) for his efforts and a special thank you to the gentleman from Indiana (Mr. PENCE) for his work and his dedication to protecting Israel.

On Friday, July 9, the International Court of Justice handed down an advisory opinion condemning Israel's security fence and declaring its construction illegal. This biased decision is the latest in a long line of blatantly anti-Israel actions by the international community. This nonbinding advisory opinion should be recognized for what it is, a thinly veiled effort to hijack a respected international body solely for the narrow purpose of condemning the State of Israel for its efforts to protect its innocent citizens from suicide bombers.

The issue before us goes far beyond continued Palestinian terrorism. The issue is the use of the ICJ to condemn Israel for acting in its own defense.

The issue is the court being asked to adjudicate a case that should never have been before the court in the first place. The International Court of Justice was not the proper forum for discussing Israel's response to continued Palestinian terror. The United States joined 25 other nations, Australia, Belgium, Cameroon, Canada, the Czech Republic, Micronesia, France, Germany, Greece, Ireland, Italy, Japan, the Marshall Islands and others in submitting objections against the court hearing this case. Twenty-five nations in all.

When the United Nations General Assembly asked the court to address only one aspect of an ongoing conflict, it deliberately made Israel and its security fence, rather than continuing Palestinian terrorism, the issue. Congress must speak on this issue, and we need to speak clearly. We must condemn the politicizing of international organizations and oppose the hijacking of multilateral entities for political purposes. We must ensure that international entities like the ICJ can continue to advance peace and security and work to resolve conflicts.

Under article 51 of the U.N. charter, all nations possess an inherent right to self-defense. However, the ICJ rejected the argument that Israel's security fence falls within this right to self-defense. In the last 3½ years, nearly 1,000 Israelis have been killed by suicide bombers coming from Palestinian territories. Since 1993, over 50 United States citizens have been killed and 80 more have been wounded by these same murderers.

I wear on my arm a band commemorating one of the United States citizens that was killed by a Palestinian terrorist bomber. Children have been targeted on their way to school. Families have been destroyed as mothers have been killed riding buses. Israel has been living under a state of siege, with its reserve military forces activated and checkpoints set up. Yet the court claims that Israel's right to self-defense does not apply. Does not apply? What better case could there be for the right of self-defense?

The implications of this interpretation are staggering. By ruling that article 51 of the charter has no relevance

outside of armed attack by one state against another, U.S. sanctions against the Taliban or al Qaeda could no longer be justified as self-defense. Using the court's logic, Spain would not be able to defend itself against another tragic train bombing. Using the court's logic, our Marines are forbidden under international law from defending themselves against warlords and terrorists. Using this court's logic, the United States cannot respond to the tragic bombing of the USS *Cole*.

What kind of logic is this? Are nations no longer permitted to fight terrorism and protect their own citizens? It is incomprehensible to me why Israel continues to be singled out. Saudi Arabia has built a nearly 75 kilometer barrier on their border with Yemen to halt the smuggling of weapons into the kingdom. India is completing a 460-mile electrified barrier in the contested Kashmir area to halt infiltrations by terrorists. And Turkey built a barrier in an area that Syria claims as its own.

Why have these security fences not been brought to the International Court of Justice? Why has the United Nations been silent on these issues? Is Israel's right to self-defense less valid than that of the Saudis, the Indians, the Turks? I think not. And are Israeli lives less valuable than Saudi lives, Indian lives, Turkish lives, American lives? I think not.

The solution to resolving this conflict lies in Gaza and Ramallah, not in Manhattan or The Hague. The path to a lasting peace lies in fulfilling the terms of the road map, which begins with a rejection of terrorism and incitement, a dismantling of the terrorist infrastructure, and real reform by the Palestinian authority.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman from California for yielding time to me, and I rise in strong support of this resolution. I want to thank the gentleman from Indiana for the wonderful work that he has done on this resolution and indeed the wonderful work he does on our Committee on International Relations.

I spoke on the floor last Friday after the so-called International Court of Justice rendered its decision. I said at the time that they should rename themselves the International Court of Injustice because their decision is truly a travesty of justice. What hypocrisy. What a double standard. Again, one standard for Israel and one standard for everybody else.

As the gentlewoman from Nevada pointed out, Saudi Arabia, Turkey, and India have built fences. Not a peep from the international community or the court of justice about those fences. Israel has built a fence to defend its citizens. This decision from the International Court of Justice comes down. Not a word about suicide bombings. Not a word about terrorism. Not a word about a nation defending its right to exist and defending its citizens.

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What is a nation supposed to do? What is more important to be a nation than to defend the rights of its citizens, the killing of innocent civilians that Palestinian terror has done? A nation has a right to defend itself, and that is why I support Israel's security fence.

I have been there. I have seen the fence firsthand. It stops terrorism. It works. And it not only works for Israelis by preventing terrorism, it is working for the Palestinians. Because of the fence, on the Palestinian side life is getting back to normal. The checkpoints are going away. So it is benefiting both sides.

They talk about Israel building the fence. Do my colleagues know who built that fence? Yasser Arafat built that fence. Palestinian terrorists built that fence. If terrorism would end, there would be no need for a fence. And yet the hypocrisy of the International Court of ''Injustice'' condemning Israel for trying to defend its citizens.

I again strongly commend the gentleman from Indiana and urge all my colleagues here to support this very important resolution. Terrorism is terrorism, and security is security. Israel should not be treated differently than any other nation.

Mr. LANTOS. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California (Mrs. CAPPS), my neighbor and colleague.

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

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

Mr. Speaker, I rise to express very serious concerns about the resolution before the House. I state these reservations as a strong friend and supporter of Israel. I speak as someone who condemns terrorism, especially the horrific practice of suicide bombing, with every fiber of my being, and I speak as someone who supports Israel's right to build a security fence along the Green Line.

But, sadly, as the House once again attempts to demonstrate its full support of Israel, we will pass an unbalanced, unwise resolution that may undermine the interests of Israelis and Palestinians as well as our own national interests.

I believe this resolution needs some changes. For example, it appropriately references the 1,000 people, mostly Israelis, who have been killed since September, 2000. But what about the 3,000 innocent Palestinians who have also lost their lives? Just once can the United States Congress not admit that Palestinians are people, too, and their lives are also precious? Would not such a compassionate statement go a long way towards restoring our credibility in the Arab world at a time when our national interests demand our image be improved? And would not such a statement be the right thing to say?

This resolution mentions the roadmap as the best path for Israeli-Palestinian peace. Yet in the very next clause we undermine the roadmap by listing only the Palestinian obligations. Of course, the Palestinians must crack down on terrorism. But the roadmap also requires Israel to impose a settlement freeze, tear down illegal outposts, ease the conditions of occupation. Why does this resolution only tell half the story?

As for the security barrier itself, I have personally witnessed the very severe hardships it imposes on Palestinian life. Again, a fence on the Green Line is one thing. That makes sense strategically and demographically. But a separation barrier that winds its way through the West Bank, appropriating Palestinian land in its wake, is not acceptable.

In the village of Jayyous, I saw how the wall separates farmers from their groves, and their crops are rotting on the field; teachers and students separated from their schools; even a Palestinian policeman unable to get to his job imposing security.

The resolution before us has a grudging reference to the recent decision by the High Court of Justice. But I think it is important for the American people to hear the Court's argument in more detail. The Israeli High Court ruled that the route of the barrier must be altered to ease the hardship of 35,000 Palestinians living adjacent to it. The current path, they argued, ''would generally burden the entire way of life in the petitioners' villages.'' The Court carefully balanced security and humanitarian considerations. The justices concluded, ''We are convinced that there is no security without law. Upholding the law is a component of national security.''

Of course, it can be argued that the security barrier has prevented terror attacks. But the only way to stop terrorism and secure the safety of Israel in the long term is for a comprehensive political solution to be negotiated with the Palestinians. After all, there was almost no terrorism perpetrated against Israeli civilians during the 3-year period of 1997 to 2000. There was not a separation barrier then but a vibrant peace process, negotiations and security cooperation between Israel and the Palestinians, with powerful leadership from the United States.

If Congress really wanted to be helpful, we would not pass resolutions on such divisive issues as a security wall, but we would urge our administration to act forcefully to bring both sides back to the negotiating table. America's failures to engage in Israeli-Palestinian conflict will not only doom these long-suffering peoples to continued violence and misery but harm vital U.S. national interests as well. And that is a risk that we can surely not afford to take.

Mr. LANTOS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. PALLONE).

The SPEAKER pro tempore (Mr. FRANKS of Arizona). The gentleman from California has 30 seconds remaining.

Mr. PENCE. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I rise today in support of H. Res. 713, and I want to say I am a practical person. The main thing is that the fence works. It saves lives. There has been a dramatic reduction in the number of attacks and the number of suicide bombings. And basically the fence is doing exactly what it was designed to do, save lives. It promotes peace. It is a mechanism for peace.

On a trip to Israel last year, I had the opportunity to view the security fence firsthand, and there I toured communities on the outskirts of Jerusalem where Israeli citizens live in constant fear of sniper attacks and suicide bombings. This fence provides a sense of security to these border families and will help prevent continued attempts to derail the peace process through violence.

I was thinking about a statement that Robert Frost made about how good fences make good neighbors. That is the case here. This is a vehicle for peace. We should all support this resolution. I strongly support Israel's right to defend their citizens from terrorist attacks. I ask my colleagues to join me in supporting this resolution because, practically speaking, the fence works, and it should be allowed to continue to have the opportunity to work.

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

I merely want to express again my thanks to the gentleman from Indiana (Mr. PENCE) for the leadership he has shown on this issue.

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

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

I rise today urging my colleagues to support H. Res. 713, and I find myself very humbled by the power and the eloquence that has preceded me. So I will simply close, Mr. Speaker, with words of gratitude from my heart and perhaps an explanation why this Midwestern Evangelical Christian finds himself carrying this timely and important resolution before the Congress.

I first want to thank the gentleman from Illinois (Mr. HYDE), chairman of the Committee on International Relations, for his strong leadership on this issue, and the gentleman from California (Mr. LANTOS), who continues to be for me an example of everything that is right about what Congress can mean on the world stage on behalf of not only Israel but human rights, and a special thanks and affection to the gentlewoman from Nevada (Ms. BERKLEY), without whose leadership this resolution would not be on the floor today. In fact, in its original version, the Pence-Berkley resolution recruited over 160 cosponsors, Republicans and Democrats alike; and it is my fondest hope that tomorrow when this measure is voted that we will see an equal reference of strong bipartisan support.

My motivation is very simple. In January this year a dream of my life came true, Mr. Speaker. I traveled to that ancient country of Israel with my beautiful wife, Karen, and in the midst of that inspiring experience, we engaged in security briefings. We found ourselves along a chain-linked fence. In the 2 hours that we toured the security fence, the guards who escorted and protected us received three notices of attempted terrorist incursions.

I came back to this blue and gold carpet with a burden on my heart to help tell that story. I went alongside the gentleman from Illinois (Chairman HYDE) and the gentleman from California (Mr. LANTOS), the gentlewoman from Nevada (Ms. BERKLEY) and said we have to get the story out of what the people of Israel are dealing with and the necessity for the fence. And I came back and authored the resolution that will be considered in the Congress tomorrow.

The truth is that the fence saves lives, Mr. Speaker, without any question whatsoever. Evidence is resplendent. We have heard it tonight. Hundreds of suicide attacks but only one from Gaza where Hamas and Islamic Jihad are actually based, but Gaza city and the Gaza area completely surrounded by a fence. In the north of Israel, where a section of the fence has been completed, there has not been a single suicide attack in more than 8 months. Before the first stage of the fence became operational in July of 2003, the average number of attacks was 8.6 per month. In the past 11 months, that has dropped to 3.2 attacks.

I hesitate to use statistics because we are talking about families. We are talking about men and women and one terrible tale after another of teenagers and small children made subject of terrorist suicide bombings. So we ought not to get lost in the numbers. We ought to remember the fence saves lives.

So last week when the International Court of Justice, by a 14 to 1 decision, violating many of its own rules of jurisdiction where it ordinarily would have recognized the authority of the Supreme Court of Israel to decide such matters, as it has very recently with great equity towards the interests of Israelis and Palestinians, the government of Israel has literally moved the fence some 20-mile stretches, and recently the Supreme Court of Israel ruled in favor of Palestinians in ordering the fence to be moved. But, nevertheless, the International Court of Justice ignored the sovereign interests of Israel, calling Israel an occupying power and calling portions of that sovereign nation occupied Palestinian territory. And that is a disgrace.

Mr. Speaker, I close simply with the words that I pray for the peace of Jerusalem. I believe, as millions of Americans do, that still to this day He will bless those who bless her. And it is my hope that tomorrow this Congress will stand and speak as near as we ever can with one voice that we condemn the International Court of Justice, this act of disgrace, and we stand by our precious ally Israel in this her most difficult hour.

Mr. FEENEY. I rise today in support of House Resolution 713 by my good friends Mr. PENCE, from Indiana, and Ms. ROS-LEHTINEN, from my own home State of Florida.

On Friday, July 9, the United Nation's International Court of Justice issued a 14–to–1 majority opinion stating that Israel's building of a security barrier is illegal, construction must stop immediately, and Israel should make reparations for any damage caused.

The ICJ's ruling also said the United Nations' General Assembly and Security Council should consider steps to halt construction of the security barrier.

This decision by the ICJ is not only the latest in the international community's long line of blatantly anti-Israel actions, but also sets a dangerous precedent by allowing the ICJ to go beyond its traditional jurisdiction.

I deplore the court's decision. Israel has a right to protect their people from those who believe that the path to salvation is paved with the blood of Jewish women and children. I have traveled to Israel and have seen the aftermath of these senseless homicide bombings.

The security fence is not only within Israel's rights to build but it has also proven to be an extremely effective tool for fighting terrorism. In 2004, no Israelis have been killed or wounded by suicide bombings in areas protected by the fence, while 19 Israeli citizens have been killed and 102 have been wounded by suicide attacks in areas unprotected by the fence.

The fence has produced a 90-percent drop in terrorism emanating from the northern West Bank, formerly the originating point for scores of devastating suicide bombings and other deadly terror attacks.

The International Court of Justice was set up in 1945 under the Charter of the United Nations to be the principal judicial organ of the Organization. Article 36 of the Court's Statute forbids bringing contentious cases before the Court unless there is agreement by all parties involved.

Obviously the ICJ did not recognize this limitation as more than 40 nations, including the United States, the European Union, Australia and Canada, submitted briefs to the Court opposing consideration of the matter of Israel's security fence. The objections that were voiced in those briefs detail concerns regarding jurisdiction as well as the politicization of the court.

Though not legally binding, the advisory opinion has already prompted the introduction of anti-Israel resolutions at the United Nations and will have the effect of emboldening efforts to isolate Israel internationally. The General Assembly will meet tomorrow to seek international support for the ICJ decision and try to impose U.N. sanctions against Israel for trying to defend its citizens.

When will the United Nations cease to thwart efforts to squash the evil, murderous organizations who rob us of our right to security? How long must the American taxpayers continue to support an international agency that no longer promotes basic freedoms of peace, security, and democracy?

Please join me in saying to the United Nations that we will not support the blatant misuse of its International Court of Justice to further the cause of these terrorist organizations. Vote ''yes'' on House Resolution 713.

Mr. ACKERMAN. Mr. Speaker, I rise in support of the resolution. I strongly believe that this House needs to speak out against the disgraceful ruling by the International Court of Justice, ICJ. I just wish that what we said to the Nation and to the world through this resolution was a more fulsome explanation of U.S. policy about not just Israel's security fence and the appropriate role of the ICJ, but the peace process, the Roadmap, the need for Palestinian political reform, and a complete cessation of Palestinian terrorist violence.

In this respect, I would commend to Members' attention H. Con. Res. 390, a resolution I introduced in March together with several distinguished colleagues in the House that highlights not just Israel's right to defend itself, and our strong support for that right, but also speaks clearly about our vital national security interest in resolving the conflict according to the terms of U.N. Security Council resolutions 242, 338, and 1397.

Indeed, what makes the ICJ's horrendous ruling more than a meaningless annoyance is its unfortunate potential for misuse. Considering the predilection shown by Palestinian leaders to pursue any line of political action, except for those that require them to set their own house in order and prevent violence from blocking the path back to direct negotiations with Israel, I think we can fully expect the ICJ's ruling to become the latest and most salient Palestinian excuse for inaction, recalcitrance, and doublespeak.

By noting the deficiencies of the resolution at hand, I don't mean to understate the wretchedness of the ICJ's ruling. I would note that the court's ruling is as awful as it was predictable, which is to say, entirely. Anyone who expected the ICJ to render an unbiased opinion, forget the shameful call the court actually issued for Israel to, in effect, defend itself by digging its own graves, is several degrees past naive and well on their way toward the title of ''hopeless sucker.''

The ICJ's opinion is riddled with flaws and stretches of remarkable illogic. The principal failing, if one can identify just one, is the complete reliance on a pro-Palestinian lens. The result, as clearly demonstrated in the court's opinion, is a misapprehension of the nature of the territory at issue, the nature of the conflict between the parties, the legal standing of the parties and the appropriate role for the court itself. Not surprisingly, the court took garbage in, and spit garbage back out.

In this light, the court's refusal to look at either the lengthy Palestinian campaign of terror which has resulted in nearly 1,000 Israeli deaths, or at the actual and ongoing contribution that the fence has already made to stopping Palestinian suicide bombers, is entirely predictable. It also smacks of casual anti-Semitism. When the deaths of hundreds of Jews is of no interest, and condemnation is ready only for non-violent self-defense measures, more than a hint of a double standard is detectable.

Again, Mr. Speaker, I do support the resolution, and I believe it is vital that the House speak strongly and clearly about this recent travesty. I urge Members to vote in favor of the resolution and to make clear their strong and unshakeable support for the one true democracy in the Middle East, the State of Israel.

Mr. MCDERMOTT. Mr. Speaker, there is no such thing as a one-sided story. From the first day I came to the House of Representatives in 1989, and until my last day in this Chamber, I have been and will continue to be a staunch defender of Israel.

I wholeheartedly and unequivocally believe in Israel's right to exist, and the fundamental human right for the Jewish people to live in peace and without fear.

Hundreds of times in this House, I have backed my words with deeds on behalf of Israel: Recognizing the founding of Israel; commending the people of Israel for conducting free and fair elections; condemning terrorism against Israel; approving funds for Israel's security; embracing efforts to achieve peace; promoting Israel's economic growth and development around the world; ensuring Israel has access to stable oil supplies; demanding real counterterrorism efforts by other Mideast nations; and, most importantly, promoting peace in our time, for all time.

Let no one say, let no one think, that JIM MCDERMOTT is not a friend of Israel. I am a true friend of Israel and that is why I offer these remarks. A true friend tells the truth as he sees it, because that's what is in the best interest of your friend.

The House has before it a resolution neither requested by the Government of Israel nor by the people of Israel.

It is a resolution that will not promote peace, or dialog, in the region. It is a resolution that risks undermining the already painfully difficult process—and the hope—of achieving peace.

There are times when the House of Representatives can advance the cause for peace, or stir the world on a matter that knows no geographic border. HIV/AIDS is such a matter. This is not one of those times.

The Bible says there is a time for every thing under heaven. We can hope this is the time for peace. We can work to make this the time for peace.

We can hurt the cause for peace by passing a resolution that would seem to place the world on one side, and Israel and the United States on the other. A political wall divides just as much as a stonewall or an iron fence.

In light of a ruling by the World Court, Israel can change the path of the wall it is building. The issues involved are complex, from land to water, from borders to principles.

The legal issues involved are inseparable from the emotionally charged, and unresolved, debate over homeland, security, peace, and the future of a Palestinian State.

Although delicate and fragile, there is at least a process underway to try to resolve the issues the wall raises. The resolution in the House today could endanger the process. That's not a risk worth taking for the purpose of recording an opinion that no one asked for.

The world knows full well the United States considers Israel a close and important ally.

I believe we support Israel best by keeping the focus on the process that someday soon could tear down all the walls that separate Israel and Palestine.

Mr. OBEY. Mr. Speaker, today the House will vote on a resolution condemning the International Court of Justice for rendering an advisory opinion on the legal consequences of the construction of the ''Israeli Wall,'' and condemning the U.N. General Assembly for requesting such an opinion.

This legislation was only introduced last night—and strikes me as the type of knee-jerk posturing that does more harm than good. I oppose the bill for the following reasons:

The ICJ rendered an advisory opinion on the legal consequences on the construction of the wall on its current route, an opinion requested by the U.N. General Assembly. The ICJ did so as it has done in the past, and the General Assembly was within its rights to request such an opinion.

Condemning the General Assembly for asking for an opinion, or the ICJ for analyzing the situation and making a nonbinding statement of opinion on the matter is essentially condemning people for asking questions or having an opinion—key elements in civilized discourse or democracy.

The sponsors of this bill, well-intentioned as they are, claim that the advisory opinion denies that Israel has a right to self-defense. This is not so—paragraph 141 states ''The fact remains that Israel has to face numerous and indiscriminate and deadly acts of violence against its civilian population. It has the right, and indeed the duty, to respond in order to protect the life of its citizens.''

The resolution is factually incorrect:

It claims the General Assembly asked for an opinion on the legality of the barrier. They did not. They asked for an opinion on the legal consequences construction of the barrier.

It says that a similar security barrier exists around Gaza. The barrier around Gaza is on the armistice line, not beyond it, does not isolate Palestinian villages, or envelop settlements on territory described by the Israeli Supreme Court as being held ''in belligerent occupation,'' and therefore is not similar.

The resolution is hypocritical—it calls on members of the international community to ''reflect soberly'' on a number of matters—although this body held no hearings on this resolution, and has not even had 24 hours to review it. I would hazard a guess that fewer than 2 percent of the Members of this body, or their staffs have actually read the opinion in question, much less reflected soberly on it.

The resolution is needlessly belligerent—it threatens that anyone who seriously considers the ICJ ruling to raise questions about the resolution of this issue ''Risk[s] a strongly negative impact on their relationship with the people and government of the United States.'' At this time, we need to be working with our colleagues in the international community to find a solution, listening to what they have to say, rather than threatening them.

The opinion states that construction of the barrier inside Occupied Palestinian Territory is illegal under international law. I'm not a lawyer—but I know that if I build my fence on your property, I've got to take it down.

The resolution notes that the Israeli courts themselves have been critical of the barrier, and have directed that changes be made to the wall's route. While this is true, it does not mean that other states concerned with the stability of the region, should not have the benefit of an advisory opinion on the legal ramifications of the wall by an outside party.

Interesting points from that Israeli Supreme Court case (which only covered one portion of the fence):

86. Our task is difficult. We are members of Israeli society. Although we are sometimes in an ivory tower, that tower is in the heart of Jerusalem, which is not infrequently struck by ruthless terror. We are aware of the killing and destruction wrought by terror against the state and its citizens. As any other Israelis, we too recognize the need to defend the country and its citizens against the wounds inflicted by terror. We are aware that in the short term, this judgment will not make the state's struggle against those rising up against it easier. But we are judges. When we sit in judgment, we are subject to judgment. We act according to our best conscience and understanding. Regarding the state's struggle against the terror that rises up against it, we are convinced that at the end of the day, a struggle according to the law will strengthen her power and her spirit. There is no security without law. Satisfying the provisions of the law is an aspect of national security. I discussed this point in HCJ 5100/94 The Public Committee against Torture in Israel v. The Government of Israel, at 845:

''We are aware that this decision does make it easier to deal with that reality. This is the destiny of a democracy—she does not see all means as acceptable, and the ways of her enemies are not always open before her. A democracy must sometimes fight with one arm tied behind her back. Even so, a democracy has the upper hand. The rule of law and individual liberties constitute an important aspect of her security stance. At the end of the day, they strengthen her spirit and this strength allows her to overcome her difficulties.

''That goes for this case as well. Only a Separation Fence built on a base of law will grant security to the state and its citizens. Only a separation route based on the path of law will lead the state to the security so yearned for.

A nonbinding opinion is just that. Disagree with it all you want—pick it apart, show how it is wrong. But to condemn people for voicing an opinion is undemocratic and should be beneath this body.

Mr. SAXTON. Mr. Speaker, I would like to thank my friend from Indiana for not only introducing this important piece of legislation but for taking the lead in this Congress on this important issue. Mr. Speaker, as someone who has visited Israel on several occasions and viewed the security fence, it is abundantly clear that it was built out of necessity. On my last trip, I was reminded once again, that the drive from the beautiful beachfront in Tel Aviv, to the Palestinian town of Qualqilya in the West Bank took less then 25 minutes. That same 25 minutes is all the time it would take for a suicide bomber to find his or her way to a bus stop, a shopping mall, or a discotechque.

Earlier today I had the honor of hosting 20 victims of Palestinian terrorism. As I met with them I was reminded of a simple but gruesome fact: everyday for nearly 60 years Israelis have awoken in the morning to a constant threat of terrorism. Terrorism is what built the security fence. The Government of Israel has said on numerous occasions that if after more then 10 years of empty promises and bold face lies by Yassir Arafat and his cronies, if the Palestinian leadership would finally crack down on terrorism and work to reform the Palestinian territories, then perhaps one day the fence would no longer be necessary.

Mr. Speaker, echoing my friend from Indiana I would like to commend President Bush and Secretary of State Powell for taking the lead in marshalling opposition to the use of the International Court of Justice as a forum to solve the ongoing Israeli/Palestinian conflict. The decision by the ICJ will do nothing politically or legally to help destroy Palestinian terrorism or reform the Palestinian Authority.

Mr. Speaker, I would like to once again commend my friend from Indiana for introducing this bold resolution and I yield back the balance of my time.

Mr. GREEN of Texas. Mr. Speaker, I rise today to express my opposition to the International Court of Justice's July 9, 2004, advisory opinion condemning Israel's security fence.

Israel's security fence is an important tool necessitated by continued Palestinian terrorism. Israel has the same obligation to protect its citizens as any other nation, including the United States.

The ruling by the ICJ is not only the latest in the United Nations long line of anti-Israel actions, but also sets several dangerous precedents in international law that hinder and impede United States antiterrorism efforts.

Having been to Israel on several occasions, I can personally attest to Israel's need for this security fence. Many measures have been taken to make its presence less intrusive on the Palestinian people, while still providing necessary protection for Israeli citizens.

Further proof of this is the June 30, 2004, ruling by the Israeli Supreme Court, which ruled that a contentious section of the barrier being built by Israel in the West Bank violates the rights of thousands of Palestinian residents by separating them from their farmland. This ruling led to a shift in the path of an 18-mile section to meet the court's demands. This fence is a necessary means of protection for a people that have suffered numerous terrorist attacks, not on their government or military, but on innocent civilians.

Israel has not claimed that this fence is a permanent barrier; it is a temporary solution to protect its citizens who have been plagued by violence.

Mr. Speaker, I oppose the International Court of Justice's decision, and I fully support Israel's right to protect its citizens.

Mr. BURTON of Indiana. Mr. Speaker, the State of Israel has been an unwavering friend and ally of the United States for decades. And Israel has stood in complete solidarity with the United States in the Global War on Terror. Over the past half-century, bipartisan support for Israel, the only true democracy in the Middle East, has been a staple of every U.S. Congress regardless of which party is in the majority. While the United Nations, other international organizations, and the governments of many countries of the world are quick to adopt the positions of Israel's adversaries, especially when Israelis exercise their absolute right to defend themselves, Congress has remained unwavering in its moral stand behind Israel. Again today, by passing House Concurrent Resolution 713—H. Con. Res. 713—a resolution I proudly cosponsored and championed, the Members of this House once again stood fast as the counterweight to most of the world's imbalanced, ''blame Israel'' approach to the Arab-Israeli conflict. H. Con. Res. 371, expressed this body's strong support for Israel's construction of a security fence to prevent Palestinian terrorist attacks, and condemned the United Nations General Assembly's decision to request the International Court of Justice to render an opinion on the legality of the fence.

Despite the fact that more than 40 nations, including the United States, 15 members of the European Union, Russia, Canada, Australia and even South Africa believed the International Court of Justice, ICJ, did not have the competence or the jurisdiction to rule on the matter, last week, the ICJ issued an advisory finding that Israel's security barrier in the West Bank is illegal. This ruling shouldn't have come as a surprise to anyone as Israel's detractors have successfully manipulated every arm of the United Nations to delegitimize Israel. The U.N. General Assembly itself has been a hotbed of anti-Israel activity, passing more than 400 resolutions against Israel since 1964, more resolutions than on any other single subject. But that body has never once investigated the Palestinian terror campaign against Israel, nor has it investigated abuse, torture, and other human rights violations by nondemocratic states in the Arab world.

In 2004, no Israeli has been killed or wounded by suicide bombings in areas protected by the fence, while 19 Israeli citizens have been killed and 102 wounded by homicide attacks in areas without the fence. The fence has produced a 90-percent drop in terrorism emanating from the northern West Bank, formerly the originating point for scores of devastating homicide bombings and other deadly terror attacks.

I commend to all of my colleagues an excellent Op-Ed written by former Israeli Prime Minister and current Finance Minister Benjamin Netanyahu laying out a clear and intellectually sound argument for why Israel needs the security fence and why Israel should never surrender its right to defend itself. I would like to have the text of this Op-Ed placed into the CONGRESSIONAL RECORD following my statement. I urge my colleagues to read it and speak out against the blatantly political ruling of the so-called International Court of Justice.

[From the New York Times, July 13, 2004]

WHY ISRAEL NEEDS A FENCE

(By Benjamin Netanyahu)

JERUSALEM.—While the advisory finding by the International Court of Justice last week that Israel's barrier in the West Bank is illegal may be cheered by the terrorists who would kill Israeli civilians, it does not change the fact that none of the arguments against the security fence have any merit.

First, Israel is not building the fence on territory that under international law can be properly called ''Palestinian land.'' The fence is being built in disputed territories that Israel won in a defensive war in 1967 from a Jordanian occupation that was never recognized by the international community. Israel and the Palestinians both claim ownership of this land. According to Security Council Resolution 242, this dispute is to be resolved by a negotiated peace that provides Israel with secure and recognized boundaries.

Second, the fence is not a permanent political border but a temporary security barrier. A fence can always be moved. Recently, Israel removed 12 miles of the fence to ease Palestinian daily life. And last month, Israel's Supreme Court ordered the government to reroute 20 more miles of the fence for that same purpose. In fact, the indefensible line on which many have argued the fence should run—that which existed between Israel and the Arab lands before the

1967 war—is the only line that would have nothing to do with security and everything to do with politics. A line that is genuinely based on security would include as many Jews as possible and as few Palestinians as possible within the fence.

That is precisely what Israel's security fence does. By running into less than 12 percent of the West Bank, the fence will include about 80 percent of Jews and only 1 percent of Palestinians who live within the disputed territories. The fence thus will block attempts by terrorists based in Palestinian cities to reach major Israeli population centers.

Third, despite what some have argued, fences have proven highly effective against terrorism. Of the hundreds of suicide bombings that have taken place in Israel, only one has originated from the Gaza area, where Hamas and Islamic Jihad are headquartered. Why? Because Gaza is surrounded by a security fence. Even though it is not complete, the West Bank security fence has already drastically reduced the number of suicide attacks.

The obstacle to peace is not the fence but Palestinian leaders who, unlike past leaders like Anwar Sadat of Egypt and King Hussein of Jordan, have yet to abandon terrorism and the illegitimate goal of destroying Israel. Should Israel reach a compromise with a future Palestinian leadership committed to peace that requires adjustments to the fence, those changes will be made. And if that peace proves genuine and lasting, there will be no reason for a fence at all.

Instead of placing Palestinian terrorists and those who send them on trial, the United Nations-sponsored international court placed the Jewish state in the dock, on the charge that Israel is harming the Palestinians' quality of life. But saving lives is more important than preserving the quality of life. Quality of life is always amenable to improvement. Death is permanent. The Palestinians complain that their children are late to school because of the fence. But too many of our children never get to school—they are blown to pieces by terrorists who pass into Israel where there is still no fence.

In the last four years, Palestinian terrorists have attacked Israel's buses, cafes, discos and pizza shops, murdering 1,000 of our citizens. Despite this unprecedented savagery, the court's 60–page opinion mentions terrorism only twice, and only in citations of Israel's own position on the fence. Because the court's decision makes a mockery of Israel's right to defend itself, the government of Israel will ignore it. Israel will never sacrifice Jewish life on the debased altar of ''international justice.''

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. PENCE) that the House suspend the rules and agree to the resolution, H. Res. 713, as amended.

The question was taken.

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

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

The yeas and nays were ordered.

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

## JAMESTOWN 400TH ANNIVERSARY COMMEMORATIVE COIN ACT OF 2003

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1914) to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement, as amended.

The Clerk read as follows:

H.R. 1914

*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 ''Jamestown 400th Anniversary Commemorative Coin Act of 2003''.

**SEC. 2. FINDINGS.**

The Congress makes the following findings:

(1) The founding of the colony at Jamestown, Virginia, in 1607, the first permanent English colony in America, and the capital of Virginia for 92 years, has major significance in the history of the United States.

(2) The Jamestown Settlement brought people from throughout the Atlantic Basin together to form a society that drew upon the strengths and characteristics of English, European, African, and Native American cultures.

(3) The economic, political, religious, and social institutions that developed during the first 9 decades of the existence of Jamestown continue to have profound effects on the United States, particularly in English common law and language, cross cultural relationships, manufacturing, and economic structure and status.

(4) The National Park Service, the Association for the Preservation of Virginia Antiquities, and the Jamestown-Yorktown Foundation of the Commonwealth of Virginia collectively own and operate significant resources related to the early history of Jamestown.

(5) In 2000, Congress established the Jamestown 400th Commemoration Commission to ensure a suitable national observance of the Jamestown 2007 anniversary and to support and facilitate marketing efforts for a commemorative coin, stamp, and related activities for the Jamestown 2007 observances.

(6) A commemorative coin will bring national and international attention to the lasting legacy of Jamestown, Virginia.

(7) The proceeds from a surcharge on the sale of such commemorative coin will assist the financing of a suitable national observance in 2007 of the 400th anniversary of the founding of Jamestown, Virginia.

**SEC. 2. COIN SPECIFICATIONS.**

(a) DENOMINATIONS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary) shall mint and issue the following coins:

(1) $5 GOLD COINS.—Not more than 100,000 5 dollar coins, which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 500,000 1 dollar coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 3. SOURCES OF BULLION.**

The Secretary shall obtain gold and silver for minting coins under this Act pursuant to the authority of the Secretary under other provisions of law.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the settlement of Jamestown, Virginia, the first permanent English settlement in America.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2007''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with—

(A) the Jamestown 2007 Steering Committee, created by the Jamestown-Yorktown Foundation of the Commonwealth of Virginia;

(B) the National Park Service; and

(C) the Commission of Fine Arts; and

(2) reviewed by the citizens advisory committee established under section 5135 of title 31, United States Code.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the period beginning on January 1, 2007, and ending on December 31, 2007.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, and marketing).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

**SEC. 7. SURCHARGES.**

(a) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the $5 coins and $10 per coin for the $1 coins.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary as follows:

(1) PROGRAMS TO PROMOTE UNDERSTANDING OF THE LEGACIES OF JAMESTOWN.—½ of the surcharges shall be used to support programs to promote the understanding of the legacies of Jamestown and for such purpose shall be paid to the Jamestown-Yorktown Foundation of the Commonwealth of Virginia.

(2) OTHER PURPOSES FOR SURCHARGES.—

(A) IN GENERAL.—½ of the surcharges shall be used for the following purposes:

(i) To sustain the ongoing mission of preserving Jamestown.

(ii) To enhance national and international educational programs relating to Jamestown, Virginia.

(iii) To improve infrastructure and archaeological research activities relating to Jamestown, Virginia.

(iv) To conduct other programs to support the commemoration of the 400th anniversary of the settlement of Jamestown, Virginia.

(B) RECIPIENTS OF SURCHARGES FOR SUCH OTHER PURPOSES.—The surcharges referred to in subparagraph (A) shall be distributed by the Secretary in equal shares to the following organizations for the purposes described in such subparagraph:

(i) The Secretary of the Interior.

(ii) The Association for the Preservation of Virginia Antiquities.

(iii) The Jamestown-Yorktown Foundation of the Commonwealth of Virginia.

(c) AUDITS.—The Jamestown-Yorktown Foundation of the Commonwealth of Virginia, the Secretary of the Interior, and the Association for the Preservation of Virginia Antiquities shall each be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code.

*(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentleman from Georgia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

GENERAL LEAVE

Mr. CASTLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore (Ms. HARRIS). Is there objection to the request of the gentleman from Delaware?

There was no objection.

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

Madam Speaker, I rise in strong support of H.R. 1914, the Jamestown 400th Anniversary Commemorative Coin Act of 2003, introduced by the gentlewoman from Virginia (Mrs. JO ANN DAVIS), and ask for its immediate passage.

The legislation authorizes the minting and sale in 2007 of gold $5 coins and silver $1 coins commemorating the 400th anniversary of the founding in 1607 of Jamestown, Virginia, the first permanent European colony in the United States and the capital of Virginia for 92 years.

The economic, political, social and cultural institutions that developed in the Jamestown Settlement, which brought together people from throughout the Atlantic basin, left profound effects on the United States, establishing the traditions of English common law and the English language, as well as cross-cultural relationships.

I would like to thank the gentlewoman from Virginia, whom we will call on to speak here in moment, because it is all of her work with the planning committee that made all this possible.

Madam Speaker, this legislation was passed by voice vote in both the subcommittee and the full Committee on Financial Services, and I do ask for immediate passage of this important legislation, which I am pleased to cosponsor.

Madam Speaker, I reserve the balance of my time.

Mr. SCOTT of Georgia. Madam Speaker, I yield myself such time as I may consume, and I want to thank the gentleman from Delaware (Mr. CASTLE).

Madam Speaker, I rise to support House Resolution 1914, which is the Jamestown 400th Anniversary Commemorative Coin Act of 2003. The year 2007 will be the 400th anniversary of the founding in 1607 of Jamestown, Virginia, the first permanent European colony in the United States and the capital of Virginia for 92 years. H.R. 1914 authorizes the minting and sale of commemorative coins honoring this distinguished event.

The Jamestown Settlement, which brought together people from throughout the Atlantic basin, had a substantial impact open the development of the United States of American, establishing the tradition of English common law and the English language, as well as cross-cultural relationships.

Congress established the Jamestown 400th Commemorative Commission in 2000 to ensure a suitable national observation of the founding. Surcharges from the sale of the commemorative coins, which are conservatively estimated to be $3 million, will be paid to the National Park Service, the Association for the Preservation of Virginia Antiquities, and the Jamestown-Yorktown Foundation of the Commonwealth of Virginia to support their efforts for the 400th anniversary.

I urge my colleagues to support H.R. 1914, the Jamestown 400th Anniversary Commemorative Coin Act.

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

Mr. CASTLE. Madam Speaker, I yield such time as she may consume to the gentlewoman from Virginia (Mrs. JO ANN DAVIS), the sponsor of this resolution before us.

Mrs. JO ANN DAVIS of Virginia. Madam Speaker, in 2007, as you have heard, the United States will commemorate the 400th anniversary of the founding of the Jamestown Settlement. As has been said, it was the capital of Virginia for 92 years.

It was at Jamestown that numerous American values and ideals came into being. Representative government was first established, private land ownership was permitted, and the spirit of free enterprise was born.

Local, State, and national organizations are currently preparing for what will be a year-long commemoration of the quadricentennial. Efforts are underway to restore and preserve the settlement and to promote national and international educational programs that increase understanding of the democratic principles that were born here.

Madam Speaker, I introduced this legislation authorizing the sale of commemorative coins in honor of the 400th anniversary of the Jamestown Settlement to help offset the cost of this occasion. The proceeds from the sale of these coins will be used to preserve the legacy of this first permanent English settlement. Jamestown is an important part of our Nation's history, with profound effects on the United States, even to this date.

Madam Speaker, I am honored to represent this historic Jamestown Settlement located in America's first district.

Madam Speaker, I would like to thank all the Members of the committee and the chairman for bringing this bill forward. I would like to also thank the 299 of my colleagues who cosponsored this bill.

I urge all my colleagues to support its passage.

Mr. TOM DAVIS of Virginia. Madam Speaker, I rise today to join my colleagues in support of H.R. 1914, the Jamestown 400th Anniversary Commemorative Coin Act of 2003. In 2007, the world will observe the 400th anniversary of the landing at Jamestown—a place and time where the cultures of North America, Europe and Africa converged, initiating and testing the unique values that ultimately created our nation. The success of the Jamestown settlement set in motion the establishment of a democratic form of government, private land ownership, free enterprise, entrepreneurship—all of which continue to evolve into our uniquely American society. The stories at Jamestown offer Americans a timely and timeless lesson in patriotism.

Historic Jamestown is America's birthplace. Ongoing research is rewriting our understanding of this significant opening chapter in American history. Moreover, studies reveal vast new knowledge about the interactions between peoples, their genealogy, their struggles and their survival to create a new society.

In short, I believe this coin will help to ensure the cultural preservation and educational programs based on the legacies of Jamestown will be sustained and expanded well into the future. I commend the sponsors and leadership for bringing this to the floor and urge the passage of this resolution.

Mr. OXLEY. Madam Speaker, I rise in strong support of H.R. 1914, the ''Jamestown 400th Anniversary Commemorative Coin Act of 2003,'' authored by the gentle lady from Virginia, Mrs. DAVIS, and ask for its immediate passage.

Madam Speaker, it is easy to lose sight of the importance of the founding of Jamestown. Of course, it was the first permanent European settlement in what is now the United

States. But from its earliest days, Jamestown fused the cultures of Europe, of the natives of America, and of the Caribbean, establishing a tradition of diversity and respect for others, as well as the traditions of English common law. In a very important way, the colony was not only the toehold of Europe, but the seed from which a new and truly American—not a replica European—society was formed.

It is for that reason that I wholeheartedly support this legislation. The educational efforts and the archaeological efforts that would be funded by the surcharges generated by the sales of the coins authorized in this legislation will be an important way to remind us, our children, and those who come long after of the importance of this colony.

I would like to congratulate Mrs. DAVIS for her legislation and for all the hard work to get the co-sponsorship of more than two-thirds of this body, and as well thank Chairman THOMAS for his help in expediting consideration of the bill. With that, I urge immediate passage of this legislation.

Mr. SCHROCK. Madam Speaker, I rise today in support of the Jamestown 400th Anniversary Commemorative Coin Act.

In December 1606 over 100 explorers left England in the spirit of exploration and discovery. They finally reached land on April 26, 1607 at the mouth of the Chesapeake Bay. These explorers landed in Virginia Beach, Virginia at a spot they named ''Cape Henry.''

Upon setting foot on solid ground, George Percy proclaimed, ''fair meadows and goodly tall trees, with such fresh waters running through the woods as I was almost ravished at the sight thereof.'' The Second District of Virginia is still home to these fresh waters and tall trees that the settlers were so relieved to see.

After resting here for 3 days and erecting a cross, at the instruction of Captain Newport, the settlers continued their journey up the James River to eventually find a home at Jamestown. Today, a cross still stands on this historic beach in Fort Story in Virginia Beach, commemorating this landing and memorializing the end of one journey but the beginning of another.

The first months in their new home proved to be an invariable struggle but by 1607 they had created the first permanent English settlement in the new world, Jamestown. Their will to survive coupled with help from their neighbors, the Virginia Indians, facilitated the Jamestown settlers in their quest to start a new life.

The 400th anniversary of the settlement of Jamestown will be celebration for all of Virginia. Rich in history, the Commonwealth of Virginia has always offered many opportunities for its residents and visitors alike to explore the wealth of history that helped shape our great nation. The 400th Anniversary Jamestown Commemorative Coin will benefit both Jamestown and the entire Commonwealth of Virginia by reaffirming our dedication to the preservation of history. This coin will help Virginia share this rich history with the rest of America and let us all celebrate this terrific anniversary.

I thank the gentlewoman from Virginia, Mrs. DAVIS, for her work on this legislation, and I urge my colleagues to support it.

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

The SPEAKER pro tempore (Ms. HARRIS). The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and pass the bill, H.R. 1914, as amended.

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

A motion to reconsider was laid on the table.

## MARINE CORPS 230TH ANNIVERSARY COMMEMORATIVE COIN ACT

Mr. CASTLE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3277), 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 Centers, as amended.

The Clerk read as follows:

H.R. 3277

*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 ''Marine Corps 230th Anniversary Commemorative Coin Act''.

**SEC. 2. FINDINGS.**

The Congress finds that—

(1) November 10, 2005, marks the 230th anniversary of the United States Marine Corps;

(2) the United States Marine Corps has, over the course of its illustrious 230-year history, fought gallantly in defense of the United States;

(3) the United States Marine Corps has, over the course of its storied history, established itself as the Nation's military leader in amphibious warfare, and will continue in that role as the United States faces the challenges of the 21st Century;

(4) the United States Marine Corps continues to exemplify the warrior ethos that has made it a fighting force of international repute;

(5) all Americans should commemorate the legacy of the United States Marine Corps so that the values embodied in the ''Corps'' are recognized for the significant contribution they have made in protecting the United States against its enemies;

(6) in 2001, the Congress authorized the construction of the Marine Corps Heritage Center, the purpose of which is to provide a multipurpose facility to be used for historical displays for the public viewing, curation, and storage of artifacts, research facilities, classrooms, offices, and associated activities, consistent with the mission of the Marine Corps;

(7) the Marine Corps Heritage Center is scheduled to open on November 10, 2005;

(8) the United States should pay tribute to the 230th anniversary of the United States Marine Corps by minting and issuing a commemorative silver dollar coin; and

(9) the surcharge proceeds from the sale of a commemorative coin, which would have no net costs to the taxpayers, would raise valuable funding for the construction of the Marine Corps Heritage Center.

**SEC. 3. COIN SPECIFICATIONS.**

(a) $1 SILVER COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue not more than 500,000 $1 coins, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the warrior ethos of the United States Marine Corps.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act, there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2005''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Marine Corps Historical Division and the Commission of Fine Arts; and

(2) reviewed by the Citizens Coinage Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the 1-year period beginning on January 1, 2005.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (b) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) SURCHARGES.—All sales of coins issued under this Act shall include a surcharge of $10 per coin.

(c) BULK SALES.—The Secretary shall make bulk sales of coins issued under this Act at a reasonable discount.

(d) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) should be at a reasonable discount.

*(e) LIMITATION.—Notwithstanding subsection (b), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.*

**SEC. 7. DISTRIBUTION OF SURCHARGES.**

(a) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Marine Corps Heritage Foundation for the purposes of construction of the Marine Corps

Heritage Center, as authorized by section 1 of Public Law 106–398 (114 Stat. 1654).

(b) AUDIT.—The Marine Corps Heritage Foundation shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received under subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentleman from Georgia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

GENERAL LEAVE

Mr. CASTLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3277, as amended.

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

There was no objection.

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

Madam Speaker, I rise today in strong support of H.R. 3277, the Marine Corps 230th Anniversary Commemorative Coin Act, authored by the gentleman from Pennsylvania (Mr. MURTHA), himself a Marine, and ask for its immediate passage.

Madam Speaker, this legislation authorizes the Secretary of the Treasury to strike and issue in 2005 $1 silver commemorative coins in observation of the 230th anniversary of the founding of the Marine Corps, which will be celebrated November 10, 2005.

The corps of Marines was create in 1775 by the Continental Congress even before the formal creation of the United States to provide a landing force for the evolving country's fleet.

Moving forward from that tradition of service on land and sea, the Marines have played pivotal roles in every major conflict in which the United States has been involved, often taking the most grueling tasks with pride.

Madam Speaker, proceeds from surcharges on the sale of the commemorative coins will be applied after the raising of the matching funds towards the construction of a Marine Corps Heritage Center being built at Quantico, Virginia, by the Marine Corps Heritage Foundation, a 501(c)3 nonprofit corporation. The foundation is dedicated to the preservation and chronicling of Marine Corps history through scholarly research, education and outreach efforts detailing the Marine Corps' contributions to the Nation. The center is scheduled to open on the 230th anniversary of the founding of the corps.

Obviously, the Marine Corps, with its storied tradition, has played an important part in the defense of this country and our values, and I believe the Marine Corps is a distinguished group of men and women worthy of a commemorative coin and the heritage center is a fine endeavor to receive the funds raised.

It is my understanding that some of the artifacts that will be in the center now are housed in a World War II-era Quonset hut, and I think we can all agree that a better environment to preserve and teach about these important artifacts is necessary.

Finally, Madam Speaker, I would like to take a moment to thank the gentleman from Pennsylvania (Mr. MURTHA), as I mentioned, himself a Marine, for his diligent and tireless work on behalf of this legislation, which is supported by more than 300 bipartisan cosponsors, myself included.

I would also like to recognize, in addition to the gentleman from Pennsylvania (Mr. MURTHA), the five Members of the United States House of Representatives who served in the United States Marine Corps: the gentleman from Illinois (Mr. EVANS), the gentleman from Maryland (Mr. GILCHREST), the gentleman from New York (Mr. HOUGHTON), the gentleman from Minnesota (Mr. KLINE), and the gentleman from Arkansas (Mr. SNYDER). We thank these gentleman and all the men and women of the United States Marine Corps for their service to our country.

Madam Speaker, I ask for immediate passage of H.R. 3277, which was approved on voice votes in both subcommittee and the full Committee on Financial Services.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, this is indeed an honor for me today, to stand on this most important bill in recognition of our Marine Corps, and I want to start my remarks by recognizing a distinguished Marine himself, the distinguished gentleman from Pennsylvania (Mr. MURTHA), who is the primary author of this legislation.

Today, Madam Speaker, we take up the Marine Corps 230th Anniversary Commemorative Coin Act, H.R. 3277. This measure passed the Committee on Financial Services by voice vote with my support.

November 10, 2005, marks the 230th anniversary of the United States Marine Corps. The United States Marine Corps has, over the course of its illustrative 230-year history, fought gallantly in defense of the United States.

This commemorative coin bill will direct the Secretary of the Treasury to mint 500,000 $1 coins with the emblem of the warrior ethos of the United States Marine Corps. The surcharge proceeds from the sale of this commemorative coin, which would have no net cost to the taxpayers, will raise valuable funding for the construction of the Marine Corps Heritage Center.

In 2001, the Congress authorized the construction of the Marine Corps Heritage Center. The facility will be used for historical displays, curation, and the storage of artifacts, research facilities, classrooms and offices. The Marine Corps Heritage Center is scheduled to open on November 10, 2005.

I strongly support the Marine Corps, especially since in Georgia we have a Marine Corps presence at the Marine Corps Logistics Base, in Albany, Georgia. The base comprises a depot maintenance complex that provides worldwide expeditionary logistics support to the Fleet Marine Force, and other forces and agencies.

The repair facility operates as a multi-commodity maintenance center. The maintenance center is an integral part of the Marine Corps Logistics Base and works closely with other organizations in carrying out the mission of the base, which is to provide logistics support to Marine forces that will maintain continued readiness and sustainment necessary to meet operational requirements.

The Marine Corps Maintenance Center, MC, is capable of supporting Marine Corps ground combat and combat support equipment, as well as other customers with similar needs. Personnel are cross-trained to apply common skills to work on a variety of equipment and different commodities. This affords the Marine Corps MCs the flexibility to rapidly realign their work force to meet the changing requirements of the FMF and other customers. It should be noted that while the MCs' capacities for each major commodity is highly flexible, their total capacity is relatively constant.

The Marine Logistics Base in Albany, Georgia, is critical, because during the late 1990s, Marine Corps units deployed to several African nations, including Liberia, the Central African Republic and Zaire in order to provide security and assist in the evacuation of American citizens during periods of political and civil instability in these nations.

Humanitarian and disaster relief operations were also conducted by Marines during the 1998 situation in Kenya and in the Central American nations of Honduras, Nicaragua, El Salvador and Guatemala.

In 1999, Marine units deployed to Kosovo in support of Operation Allied Forces.

Soon after the September 11, 2001, terrorist attack on New York City and here in Washington, D.C., Marine units deployed to the Arabian Sea and in November set up a forward operating base in southern Afghanistan as part of Operation Enduring Freedom.

Today the Marine Corps stands ready to continue in the proud tradition of those who valiantly fought and died at Iwo Jima, in the Chosin Reservoir and Khe Sanh, combining a long and proud heritage of faithful service to this Nation, with the resolve to face tomorrow's challenges, and will continue to keep the Marine Corps the best of the best.

Madam Speaker, from the foundation of this country, from the Revolutionary War, to the War of 1812, to the Mexican-American War, to the Civil War, to the Spanish-American War,

World War I and World War II, to the Korean War, from the Halls of Montezuma to the shores of Tripoli, from the jungles in Vietnam to the hot sand in the Middle East, our Marine Corps has been there, on the cutting edge, standing strong and fighting and dying for our freedom and freedom around this world, and oftentimes standing when there is nothing left to do but stand and die for a noble cause, freedom and democracy.

Madam Speaker, I know that every American in this country joins me in recognizing the Marine Corps with this 230th commemorative coin that will go a long way in simply saying thank you, our Marines.

Madam Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EVANS).

Mr. EVANS. Madam Speaker, I am proud to support this Commemorative Coin Act. I want to thank my friend and fellow Marine, the gentleman from Pennsylvania (Mr. MURTHA), for sponsoring this legislation. We have worked hard together to get our colleagues out in cosponsoring this legislation.

I am really impressed how eager our colleagues are to support the United States Marine Corps. There are currently only six enlisted men serving in the United States House of Representatives that were in the Marine Corps.

My friend, the gentleman from New York (Mr. HOUGHTON), is the oldest Marine; and I am proud to serve with him. As we all know, the gentleman is retiring this year and will be missed. He represents the generation of Marines that motivated my brother and myself to join the corps. It was his generation and their heroics in Guadalcanal, Iwo Jima and other places of legend and lore that seduced thousands of men and women to join.

□ 2230

Madam Speaker, many people can point to a time in their life when everything changed. For me, it was my time in the United States Marine Corps. Not only did it give me discipline and rigorous physical conditioning, but it gave me a purpose in life.

The Marine Corps has continued to give generations of young Americans a purpose for their lives. So I thank the Chair for sponsoring this and for helping us to get it to this point.

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

Mr. CASTLE. Madam Speaker, in yielding back, let me just thank the gentleman from Illinois (Mr. EVANS) for his service to this country on a couple of fronts, obviously, here in Congress and as a Marine, and the gentleman from Georgia (Mr. SCOTT) for his touching speech for the Marines, for whom we all owe a great debt of gratitude. I urge everyone to support the legislation.

Mr. SCHROCK. Madam Speaker, I rise today in support of H.R. 3277, the Marine Corps 230th Anniversary Commemorative Coin Act.

As a representative of one of the largest military constituencies in the Nation and as the chairman of the House Navy and Marine Corps Caucus, I am proud to support this bill.

This is about memorializing the heritage of the United States Marine Corps, both in silver, and through the financial support that this will bring to funding the Marine Corps Heritage Center, which will allow us to preserve the over 200 years of brave service to our country that the Marine Corps has rendered.

The Marine Corps fought during America's first war on terror, when then President Thomas Jefferson launched a war against the Barbary pirates, who for nearly 200 years had terrorized shipping in the Caribbean, raiding ships, and forcing American merchant sailors into slavery until ransom was paid for their release.

Like today, the actions of these terrorists were openly supported by foreign nations who had no respect for law. Like today, few other countries in the world were willing to stand up and fight.

Many European nations calculated that paying tribute to the Barbary pirates to leave their merchant ships alone gave them an edge over young countries like the United States in commercial trade.

As part of Jefferson's war on the Barbary pirates, in 1805, a brave force of U.S. Marines crossed over 600 miles of West African desert and successfully assaulted the Barbary pirate harbor fortress at Derna, on the shores of Tripoli.

Following this victory, these Marines were the first U.S. forces to hoist the flag of the United States over territory in the Old World.

This early success of the Marines struck a blow for the forces of lawful nations against the terrorism of their day, and contributed to a change in the policy of European nations paying tribute, eventually bringing an end to the terrorism of the Barbary Coast nations.

This heritage is what we are commemorating with the passage of this bill. It is the same heritage that we will be preserving through the Marine Corps Heritage Center.

Mr. OXLEY. Madam Speaker, I rise today in strong support of H.R. 3277, the Marine Corps 230th Anniversary Commemorative Coin Act, authored by the gentleman from Pennsylvania, Mr. MURTHA, and ask for its immediate passage.

All of us know the grit the Marines have shown in the face of some of the worst of the fighting necessary to protect our Nation. All of us know the esprit de corps for which the Marines are famous. But, I think, few of us know all of the history of the Marines—that they were formed even before the United States became a country, for example. Passage of this legislation will help rectify that problem.

Surcharges from the sale of the coins authorized in this bill will help fund construction of a facility at Quantico to house Marines memorabilia currently held in a 60-plus-year-old corrugated-metal building that isn't going to last forever. The Marine Corps Heritage Center that would be partially funded by surcharges and matching funds will provide a permanent center for preserving those artifacts, and a place to do research on the Marines.

I would like to congratulate Mr. MURTHA for his legislation and for all the hard work to get the co-sponsorship of more than two-thirds of this body, and as well to thank Chairman THOMAS for his help in expediting consideration of the bill. With that, I urge immediate passage of this legislation.

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

The SPEAKER pro tempore (Ms. HARRIS). The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and pass the bill, H.R. 3277, as amended.

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

A motion to reconsider was laid on the table.

## JOHN MARSHALL COMMEMORATIVE COIN ACT

Mr. CASTLE. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2768) to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall, as amended.

The Clerk read as follows:

H.R. 2768

*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 ''John Marshall Commemorative Coin Act''.

**SEC. 2. FINDINGS.**

The Congress hereby finds as follows:

(1) John Marshall served as the Chief Justice of the United States Supreme Court from 1801 to 1835, the longest tenure of any Chief Justice in the Nation's history.

(2) John Marshall authored more than 500 opinions, including virtually all of the most important cases decided by the Supreme Court during his tenure.

(3) Under his leadership, the Supreme Court of the United States gave shape to the fundamental principles of the Constitution, most notably the principle of judicial review.

(4) John Marshall's service to the United States—not only as a Chief Justice, but also as a soldier in the Revolutionary War, as a Member of Congress, and as Secretary of State—truly makes him one of the most important figures in our Nation's history.

**SEC. 3. COIN SPECIFICATIONS.**

(a) DENOMINATION.—In commemoration of the 250th anniversary of the birth of Chief Justice John Marshall, the Secretary of the Treasury (hereafter in this Act referred to as the ''Secretary'') shall mint and issue not more than 400,000 $1 coins, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

**SEC. 4. DESIGN OF COINS.**

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of Chief Justice John Marshall and his immeasurable contributions to the Constitution of the United States and the Supreme Court of the United States.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year ''2005''; and

(C) inscriptions of the words ''Liberty'', ''In God We Trust'', ''United States of America'', and ''E Pluribus Unum''.

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Commission of Fine Arts, and the Supreme Court Historical Society; and

(2) reviewed by the Citizens Coin Advisory Committee.

**SEC. 5. ISSUANCE OF COINS.**

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning January 1, 2005.

(d) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after December 31, 2005.

**SEC. 6. SALE OF COINS.**

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) MARKETING.—The Secretary, in cooperation with the Legacy Fund of the Library of Congress, shall develop and implement a marketing program to promote and sell the coins issued under this Act both within the United States and internationally.

**SEC. 7. SURCHARGES.**

(a) IN GENERAL.—All sales of coins minted under this Act shall include a surcharge of $10 per coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Supreme Court Historical Society for the purposes of—

(1) supporting historical research and educational programs about the Supreme Court and the Constitution of the United States and related topics;

(2) supporting fellowship programs, internships, and docents at the Supreme Court; and

(3) collecting and preserving antiques, artifacts, and other historical items related to the Supreme Court and the Constitution of the United States and related topics.

(c) AUDITS.—The Supreme Court Historical Society shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the Society under subsection (b).

*(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentleman from Georgia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

GENERAL LEAVE

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

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

There was no objection.

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

I do rise in strong support of this legislation, the John Marshall Commemorative Coin Act, authored by the gentleman from Alabama (Mr. BACHUS), and urge its immediate passage.

The legislation directs the Secretary of the Treasury to strike and issue, in 2005, silver one-dollar coins with a design emblematic of Chief Justice John Marshall, denoting the 250th anniversary of that great man's birth. Proceeds from the collection of surcharges on the sale of the coins will go, after matching funds are raised, to benefit the work of the Supreme Court Historical Society.

I would like to note that in addition to the broad bipartisan support for this legislation, in this Chamber and in the other body, we had a rather remarkable witness in the Subcommittee on Domestic and International Monetary Policy at a March hearing on this bill. For the first time in my memory, a Chief Justice of the Supreme Court testified before a committee other than that of the Committee on the Judiciary. Chief Justice Rehnquist gave a learned and enthusiastic presentation on behalf of the legislation.

Madam Speaker, John Marshall, known as ''the Great Chief Justice,'' served as Chief Justice of the United States for 34 years, from 1801 to 1835. Born in the Blue Ridge hills of Virginia, he had little formal education but served as a captain of an artillery company in the battles of Brandywine and Monmouth and spent the winter with General Washington at Valley Forge during the Revolutionary War and briefly studied law after the war before being elected a Member of Congress from Virginia. At the time of his appointment as Chief Justice, he was Secretary of State to President Adams.

As Chief Justice Rehnquist reminded us, due mostly to Chief Justice Marshall, the Federal judiciary headed by the Supreme Court is regarded as a coequal branch of the Federal government, but in the first decade of this country the judiciary was much a junior partner.

Chief Justice Marshall is best known as the author of the Court's opinion in the famous case of Marbury v. Madison decided in 1803, known as the fountainhead of all of our present-day constitutional law because it established the doctrine of judicial review, the authority of the Federal courts to declare legislative acts unconstitutional.

Ultimately, Chief Justice Marshall wrote more than 500 opinions and, as Chief Justice Rehnquist reminded us, Oliver Wendell Holmes once said, ''If American law were to be represented by a single figure, skeptic and worshipper alike would agree without dispute that the figure could be one alone, and that one John Marshall.''

Madam Speaker, this legislation is supported by more than 300 bipartisan cosponsors and the full Committee on Financial Services by voice votes. I urge its immediate passage.

Madam Speaker, I reserve the balance of my time.

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

Madam Speaker, I certainly want to thank the distinguished gentleman from Delaware (Mr. CASTLE) for his eloquent remarks concerning Mr. MARSHALL.

I rise in support and I am happy to be a cosponsor of this bipartisan legislation, H.R. 2768, which authorizes the minting and sale of commemorative coins honoring the great Chief Justice John Marshall.

A Virginian, John Marshall served as Chief Justice of the Supreme Court for 34 years, from 1801 through 1835, which was the longest tenure of any Chief Justice.

Chief Justice Marshall served this country with distinction in all three branches of government. After serving General George Washington as an artillery captain during the Revolutionary War, he studied law and was elected as a Member of Congress from Virginia and was Secretary of State when President John Adams named him Chief Justice.

Chief Justice Marshall is widely regarded as the person who elevated the Supreme Court's status to that of an equal partner with the legislative and executive branches.

In the landmark Marbury v. Madison decision, written 2 years after he became Chief Justice, Marshall laid the legal groundwork for modern-day constitutional law and established the doctrine of judicial review.

Surcharge proceeds from the sale of these coins, which can conservatively be estimated at $1.5 million, are to be paid to the Supreme Court Historical Society. The Society is a nonprofit association dedicated to collecting and preserving the history of the Supreme

Court and to providing public education on the history of the Constitution and the judiciary.

Specifically, the surcharges will be used to enable the Society to support historical research and education programs about the Court and the Constitution and related topics to support fellowship programs, internships, and documents of the Court, and to collect and preserve antiques and artifacts and other historical items related to the Court and the Constitution. John Marshall, a most deserving recognition for a most deserving American.

Madam Speaker, I reserve the balance of my time.

Mr. CASTLE. Madam Speaker, I have no further speakers at this time, but I would like to do something. The sponsor of the legislation could not be here tonight, the gentleman from Alabama (Mr. BACHUS), and was very interested in being able to speak, and I will submit for the RECORD those remarks.

Mr. OXLEY. Madam Speaker, I rise today in strong support of H.R. 2768, the ''John Marshall Commemorative Coin Act,'' introduced by the gentleman from Alabama, Mr. BACHUS, and urge its immediate passage.

Mr. Speaker, no school child of my age, or probably even of today, does not know of the famous Marbury vs. Madison decision, written by Chief Justice John Marshall, that established the principle of judicial review and made the Supreme Court, and the Federal judiciary, a co-equal branch of government.

I think, though, that even law students probably do not know that as the country's first Chief Justice, John Marshall wrote more than 500 opinions, truly making the court the great institution it is today during his 34 years of service in that post.

Just as importantly, I am certain that few know of the great efforts by the Supreme Court Historical Society, which preserves court memorabilia, provides docents for the court building and offers conservation for some truly valuable items held by the society—here I am thinking particularly of a striking portrait of John Marshall himself.

Surcharge income from the sale of the coins authorized in this legislation will help preserve those items and preserve the true history of the court, a history for which John Marshall's own hand scrawled the first bold strokes.

I would like to congratulate Mr. BACHUS for his legislation and for all the hard work to get the co-sponsorship of more than 500 Members of this body, and as well to thank Chairman THOMAS for his help in expediting consideration of the bill. With that, I urge immediate passage of this legislation.

Mr. GUTIERREZ. Madam Speaker, the resolution we are considering today, H.R. 2768, provides for the minting of a commemorative coin to honor the life and legacy of Chief Justice John Marshall, an important figure in United States history. He was a soldier during the Revolutionary War, a member of Congress, and Secretary of State before serving as chief justice for 34 years, the longest period of any justice in our Nation's history. He authored more than 500 opinions, which helped shape the fundamental principles of the Constitution, most notably the principle of judicial review. His leadership helped set the course for our court to become the powerful and prestigious institution that it is today.

Most Chicagoans recognize the name John Marshall as that of the John Marshall Law School, located in the heart of the city's legal and financial district. This institution has a long and continuous tradition of diversity, innovation and opportunity. Students receive an education that combines an understanding of the theory, the philosophy and the practice of law. Alumni from John Marshall Law School are active participants in local and national politics.

I initially became aware of this bill through alumni of John Marshall Law School. I have since become a strong supporter because not only does it honor Marshall's legacy, but it also has the potential to generate millions of dollars for the Supreme Court Historical Society. I believe the Society is an important tool for all Americans. It helps keep us educated and informed of our Nation's highest court and its activities.

As I spoke to other offices about this legislature, I was pleased to be able to secure an additional 40 cosponsors for this bill, helping to move it forward. However, I am disappointed that it took so long to get it past the House Financial Services Committee, which reported it out on April 27, 2004. I would have liked such a worthy, bipartisan issue to have been brought on the floor for voting much sooner. Nonetheless, I am pleased to be standing here in front of you today and I urge you to support this honorable and worthy legislation.

Mr. BACHUS. Madam Speaker, I rise today as a sponsor of H.R. 2768, the John Marshall Commemorative Coin Bill. The Citizens Commemorative Coin Advisory Committee has recommended that a coin commemorating the 250th anniversary of Chief Justice John Marshall be minted in 2005.

John Marshall's service to United States—not only as Chief Justice, but also as a soldier in the Revolutionary War, as a Member of Congress, and as Secretary of State—truly makes him one of the most unique and important figures in our Nation's history. A commemorative coin in his honor would be a fitting way to mark the 250th anniversary of his birth.

One occasionally hears the expression that an institution is the lengthened shadow of a individual. One would be remiss in suggesting that an institution such as the Supreme Court, an institution that has endured for over 200 years, could be the lengthened shadow of any one individual; but surely if there is one individual who could possibly qualify for such a distinction, it would be John Marshall.

John Marshall served as Chief Justice of the United States Supreme Court from 1801 to 1835, much of that time spent in this very building, holding the longest tenure of any Chief Justice in the Nation's history. He authored more than 500 opinions, including virtually all of the most important cases that the Court decided during his tenure. Under his leadership, the Supreme Court gave shape to the fundamental principles of the Constitution.

Neither Marshall nor the Court has previously been honored with a commemorative coin. One in his honor would be a fitting way to mark the 250th anniversary of his birth. Furthermore, to those concerned with the expense incurred from the creation of this coin, surcharges received by the Secretary from the sale of the coins will be paid by the Secretary of Treasury to the Supreme Court Historical Society to support historical research and educational programs about the Supreme Court and the Constitution of the United States; to support fellowship programs, internships, and docents at the Supreme Court; and to collect and preserve antiques, artifacts, and other historical items related to the Supreme Court and the Constitution of the United States. I urge my colleagues to strongly support this legislation.

Mr. SCOTT of Georgia. Madam Speaker, I have no further requests for time, so I yield back the balance of my time.

Mr. CASTLE. Madam Speaker, I also yield back the balance of my time and encourage all of the Members to vote aye in support of this legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and pass the bill, H.R. 2768, as amended.

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

A motion to reconsider was laid on the table.

## FIVE YEAR REAUTHORIZATION OF DISTRICT OF COLUMBIA TUITION ASSISTANCE PROGRAMS

Mr. TOM DAVIS of Virginia. Madam Speaker, I move to suspend the rules and pass the bill—H.R. 4012—to amend the District of Columbia College Access Act of 1999 to permanently authorize the public school and private school tuition assistance programs established under the Act, as amended.

The Clerk read as follows:

H.R. 4012

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

**SECTION 1. 5-YEAR REAUTHORIZATION OF TUITION ASSISTANCE PROGRAMS.**

(a) PUBLIC SCHOOL PROGRAM.—Section 3(i) of the District of Columbia College Access Act of 1999 (sec. 38—2702(i), D.C. Official Code) is amended by striking ''each of the five succeeding fiscal years'' and inserting ''each of the 10 succeeding fiscal years''.

(b) PRIVATE SCHOOL PROGRAM.—Section 5(f) of such Act (sec. 38—2704(f), D.C. Official Code) is amended by striking ''each of the five succeeding fiscal years'' and inserting ''each of the 10 succeeding fiscal years''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

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

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

There was no objection.

Mr. TOM DAVIS of Virginia. Madam Speaker, I yield myself such time as I may consume.

I rise today in strong support of H.R. 4012, legislation to reauthorize the District of Columbia College Access Act for 5 additional years.

The College Access Program has been a key component of the District's revitalization efforts in recent years. It is critical that Congress continue to support its partnership with the District in providing access to higher education resources.

Madam Speaker, Congress chose to establish the D.C. College Access Program in 1999 for two primary reasons. First, the program addresses the fact that the District of Columbia does not have a State university system for its high school graduates. The program essentially leveled the playing field for high school graduates in the Nation's Capital by enabling them to attend colleges and universities around the country at in-State tuition rates, which makes college education affordable for students coming out of the District of Columbia, something that really was not available to them prior to this.

The program's second purpose was to deter tax-paying families in the District from moving to surrounding States in order to take advantage of in-State higher education options available to residents in other States, thus depriving the District of much-needed stability and tax revenue.

I cannot tell my colleagues how many mothers and fathers have approached me to say thank you for not having to leave the District so our child could go to college, but thanks to this program, we can stay.

At a Committee on Government Reform hearing on the program last March, it was clear that the program has been more than a mere anecdotal success over the last 5 years. D.C. Mayor Tony Williams testified that since the creation of the program the number of high school graduates in the District continuing on to college has increased 28 percent. The national average over the same time period was 5 percent.

It was not too long ago we had high schools in the District sending more kids out to Lorton Prison than to college. College was not an affordable option for many of these kids in the District. What we see happening now is, as it becomes more affordable, we see kids getting in the spirit and we see a significant increase of District kids going on to higher education. With that, crime decreases, the economy is improving, the District is achieving financial stability.

The impact of the College Access Program is undeniable. According to a survey of high school graduates in the District, 75 percent of the students who have received assistance through the program have indicated that the existence of these grants makes the difference in their decision to attend college and was a key factor in deciding which college to attend. H.R. 4012 represents a shot at a better education and, in turn, a better life for countless D.C. students.

The District is not a State, and D.C. residents do not have access to the network of in-State universities like residents of other States. As I said before, this legislation also provides an incentive to families to stay in the District. This program operates hand-in-hand with the D.C. College Access Program, which is the private sector's College Access Program, providing college counseling to D.C. high school students and last dollar financial assistance to college-bound D.C. high school graduates. This is a double punch provided by the public and the private sectors and it has made a tremendous impact on the educational opportunities available to D.C. high school students.

It is equally clear that the students are becoming more aware and choosing to take advantage of these opportunities.

Madam Speaker, I urge my colleagues to support H.R. 4012 and to continue to support a level playing field for high school graduates in the District of Columbia.

Madam Speaker, I reserve the balance of my time.

Ms. NORTON. Madam Speaker, I yield myself such time as I may consume.

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

Ms. NORTON. Madam Speaker, the District of Columbia College Access Act of 1999, which funds the D.C. Tuition Assistance Grant, or TAG program, was passed with bipartisan sponsors in the House and Senate, led in this House by the gentleman from Virginia (Mr. DAVIS). It included a number of cosponsors, as many, if not more, from the other side of the aisle as from this side.

The champions of the bill in the Senate were equally bipartisan. I am particularly grateful to the current House and Senate sponsors of H.R. 4012 who were on the original bill for their continuing leadership efforts in sustaining TAG and to President Bush who came to office several years after the bill was in effect, saw the evidence of its success, and has continued to fund it in his budget at authorized levels.

I want to specifically thank my good friend, the gentleman from Virginia (Mr. TOM DAVIS), who has offered indispensable leadership on this bill and on a number of other very important D.C. initiatives over the years.

The Act gives D.C. residents the options for college attendance routinely enjoyed by other Americans through their State college systems. This is the one jurisdiction in the United States that does not have a university system. D.C. has only one public university, the University of the District of Columbia, or UDC, an open-admission institution.

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And as part of DC TAG, Congress allowed UDC to be funneled on an annual basis as a Historically Black College or University for the first time in our history.

The bill allows DC residents to attend any public college or university anywhere in the United States at in-state tuition rates up to $10,000 annually and to receive $2,500 to attend any private college or HBCU in the city or region. Already over 6,000 DC students have attended more than 150 colleges nationwide because of supplementary funds provided by the act.

The best indication of the success of the act is that in the 5 years since it was passed, college attendance in the district has increased by 28 percent, compared with only 5 percent nationally. DC TAG recipients range from residents for whom college was more a dream than a possibility, to residents who might otherwise have moved out of the district and along with them more of the district's already depleted tax base.

The cost of tuition is a significant reason many residents left and others refused to settle here rather than in Maryland or Virginia, each of which has more than 30 different colleges and universities to fit the specific needs and interests of residents.

The evidence of the success of the program and return on the dollar to residents, to the city, and to the Federal Government is not in dispute. Close monitoring by the GAO and by our office has shown that TAG has been well run. TAG is universally popular among DC residents and businesses because of the act's simultaneous and immediate benefits to both District residents and to the city itself.

This program is an unqualified success story. It continues to exceed all expectations. It deserves the 5-year extension the committee recommends today, and I strongly urge passage.

Mr. SCHROCK. Madam Speaker, I rise today in strong support of H.R. 4012, a bill to reauthorize the District of Columbia College Access Act for 5 years.

This legislation allows high school graduates from D.C. to pay in-state tuition rates at state colleges and universities throughout Maryland and Virginia. As a Congressman from the Commonwealth of Virginia, I welcome these students.

Over the past year, I have become increasingly aware of the hardships the children in our Nation's capital face. Their public school system is in shambles. Without this legislation, a DC student who manages to succeed in the failed school system despite the odds, and is accepted to college, has very limited choices on where he or she can go and pay lower in-state rates.

Since the creation of the program 5 years ago, the number of high school graduates in the District continuing on to college has risen by an astonishing 28 percent. These are the kind of results we like to see.

This legislation simply levels the playing field for these students, who do no have the

benefit to choose from several in-state colleges like their counterparts throughout the rest of the nation.

I believe that the city of Washington, DC should be a model to the rest of the nation. Ensuring that young people in DC have access to a good education is a great place to start.

I hope that my colleagues will overwhelmingly support this legislation, and show the students in the District of Columbia that we are committed to ensure they have every opportunity to succeed in life.

Mr. SHAYS. Madam Speaker, I rise in support of H.R. 4012, which helps level the playing field for the students of D.C. by permanently expanding opportunities for affordable higher education at colleges and universities across the nation.

Too many children in our Nation's Capital are not getting the higher education they need and deserve, and this program gives many the opportunity to go to college.

D.C. residents do not have access to a network of in-state universities like residents of States. The D.C. College Access Program provides D.C. high school graduates access to colleges and universities throughout the country at in-State tuition rates.

The program has been a tremendous success since it was implemented in 1999. The number of D.C. high school graduates continuing on to college increased from 1,750 in 1998 to 2,230 in 2002. That's a 28 percent increase since the program was created.

It also provides an incentive to families to stay in the District. Before the program existed, families would often move to Virginia or Maryland to take advantage of in-State tuition rates for their children. This was a drain on the District's economy, exacerbating the District's dependence on the federal government.

By encouraging families to stay in D.C., we are helping to stabilize the District's tax base and reduce the local jurisdiction's financial dependence on the Federal Government.

The D.C. College Access Program is clearly having a positive impact on the educational opportunities available to D.C. high school students, and it is clear that students are becoming more aware of and choosing to take advantage of these opportunities.

Because of the program's tremendous success, and the support it gives to the youth in our Nation's Capital, I urge my colleagues to support this legislation.

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

Mr. TOM DAVIS of Virginia. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Ms. HARRIS). The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the bill, H.R. 4012, as amended.

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

The title is amended so as to read: ''A bill to amend the District of Columbia College Access Act of 1999 to reauthorize for 5 additional years the public school and private school tuition assistance programs established under the Act.''.

A motion to reconsider was laid on the table.

## O.C. WELCH'S CONTRIBUTION TO THE CAUSE

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

Mr. KINGSTON. Madam Speaker, Americans remain frustrated and fed up with the liberal lopsided media. Worse than their decisive liberalness, Americans are tired of the media's pessimism: we cannot have democracy in the Middle East. We have to have the permission of the U.N. We will never get out of there without France and Germany.

One man in my district has taken matters into his own hands. At his own expense, O. C. Welch has taken out the following ad which he calls ''The Rest of the Story.'' He lists all the good things that have happened in Iraq, from building schools to getting small businesses up and running, to getting hospitals open again, to bringing electricity back. He says, ''There are many, many people in Iraq that want us there, and want us there bad. They say that they will never see the freedom we talk about, but they hope their children will. Our troops have performed brilliantly and have done a great job both during combat and reconstruction.''

That is O. C. Welch's contribution to the cause. I think it is a good one. I know Mr. Welch. He is a self-made man. He started out selling used cars at the old Plantation Nightclub lot. He moved to Claxton, Georgia. Now he is in Beaufort. He is a family man, he is a generous giver to the Catholic church, but above all O. C. Welch is a great American and an optimist.

[From the Savannah Morning News, July 5, 2004]

THE REST OF THE STORY

THIS IS A LIST OF SOME OF THE POSITIVE THINGS THAT HAVE HAPPENED IN IRAQ RECENTLY

Over 400,000 kids have up-to-date immunizations.

School attendance is up 80% from levels before the war.

Girls are allowed to attend school.

Over 1,500 schools have been renovated and rid of the weapons stored there so education can occur.

The port of Uhm Qasar was renovated so grain can be off-loaded from ships faster.

The country had its first two billion barrel export of oil in August.

Over 4.5 million people have clean drinking water for the first time ever in Iraq.

The country now receives two times the electrical power it did before the war.

100% of the hospitals are open and fully-staffed, compared to 35% before the war.

Elections are taking place in every major city, and city councils are in place.

Sewer and water lines are installed in every major city.

Over 60,000 police are patrolling the streets.

Over 100,000 Iraqi civil defense police are securing the country.

Over 80,000 Iraqi soldiers are patrolling the streets side-by-side with U.S. soldiers.

Over 400,000 people have telephones for the first time ever.

Students are taught field sanitation and hand-washing techniques to prevent the spread of germs.

An interim constitution has been signed.

Textbooks that don't mention Saddam are in the schools for the first time in 30 years.

There are many, many people in Iraq that want us there, and want us there bad. They say that they will never see the freedom we talk about, but they hope their children will. Our troops have performed brilliantly and have done a great job both during combat and reconstruction.

God bless all of them and the job they do.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

(Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HENSARLING) is recognized for 5 minutes.

(Mr. HENSARLING addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

(Mr. EMANUEL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

UNITED NATIONS SECURITY COUNCIL RECIPIENT NATIONS OIL-FOR-FOOD PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. KING) is recognized for 5 minutes.

Mr. KING of Iowa. Madam Speaker, I appreciate the opportunity to address the House tonight and the opportunity to discuss the issue that is in the front of the American consciousness, and that is the issue of the United Nations and the involvement of the members of the United Nations with the world policy and how things have evolved from the United Nations world policy with regard to Iraq and the Iraqi Oil-for-Food program that has been going on now since about the middle 1990s.

As the Speaker will remember, and the people in this country will remember, the sanctions that were against the United Nations that were established after Desert Storm were lifted, to some degree, to allow the Iraqi government under Saddam Hussein to trade existing oil production that they had for humanitarian supplies, which included food and medicine, into Iraq, and the structure of the Oil-for-Food program that was established there and the bureaucracy of the United Nations and the $10.1 billion that we believe has been scooped out of that program and gone into the pockets of bureaucrats at the expense of the Iraqi people and of course the expense of the credibility of the United Nations themselves.

Now, I would first like to back up a little bit and describe who the United Nations really are, and there is a misconception in this country that the United Nations, since there is someone seated there from every member nation and each nation has a voice and each nation has a vote and we have five members of the permanent Security Council and we have a total of five members of the Security Council, the other members which rotate, we get the perception and we make the mistake that the United Nations somehow represents the will of the people of the world, that its democratic governments, or I should say in my preference is constitutional republican governments, that send their representatives there that are the voice of the people that now speak at the United Nations. And in fact, that is quite a ways from the truth.

Some nations do do that. Free nations do that, but there are nations there and many of them are represented by dictators, who, if they are not speaking for themselves, their representative speaks for them. The people in those countries do not have the ability or do not have the right to speak up for themselves. They do not have the chance to go to the polls and vote nor direct their national destiny or determine who their leader will be that directs their national destiny.

So the United Nations has become, over the years, an organization that I term to be a third-world class and debate society, and the structure of the United Nations is not democratic. It is not representative. It is simply the voices of the nations of the world rather than the voices of the people of the world.

Well, then enter the Oil-for-Food program. Yes, we had humanitarian interests in Iraq, and there is no nation on this globe that has more commitment towards the people of Iraq than the United States of America, but we went along with and supported the concept of an Oil-for-Food program, and what we got was a program that enriched the bureaucrats, enriched the Saddam Hussein regime to the tune of $10.1 billion.

And here is a little bit of the structure of how that works on this easel to my left. This red represents the greatest recipient nation of the scoop of oil for food. Now, that is Russia, and then the rest of this colored spectrum here are these other nations along the way, all in differing degrees. France, a major player, of course. We would expect that. China a major player. This is just a sample of some of the money that has gone to these nations.

I took a look at the resistance to America's interests in going into the nation of Iraq prior to our invasion and occupation there, and I wondered why was it that the resonance of the resistance to American policy was so strong and so great. And I asked at the time, do they have financial interests there? What are their interests?

Well, one of the things, is oil for food. Some of these countries stood to profit a great deal from the Oil-for-Food program. This gives a little better perspective on where these interests came from. This is broken down by continent. The big blue is Europe, and that does include Russia, Germany, and France. Eighty-seven percent of the Oil-for-Food scoop that we know at this point, or we believe allegedly at this point, that came out of that program that should have gone to the benefit of the Iraqi people really went to Europe itself; and these are the countries, by the way, that stood up and opposed our policy in Iraq.

So I took the Security Council itself, and I broke it down into five nations, Russia, France, China, Great Britain and the United States, and asked the question, what percentage then of the Oil-for-Food profits that were going out of that program off the tables of the Iraqi people was going into these countries of the Security Council, the permanent members of the Security Council, those five members?

Three of those nations collected 99.1 percent of that money that should have gone to the Iraqi people, at least by the numbers that we have in front of us today; 99.1 percent went to Russia, France and China together. None of those nations supported our policy in Iraq. All of them opposed us in differing degrees of disagreement and aggressiveness, but I think that tells us that the decibels of their resistance were indexed to the Oil-for-Food program in some part.

And in another part, and I do not have the chart here tonight, how many oil development contracts did they have prepared that would give them an opportunity to develop that if Saddam would have stayed in power in Iraq? We will index that another time.

And additionally, I am just going to quickly show this policy here. This is the flowchart of some of the Oil-for-Food scam that went on and this Congress needs to look into this, and we need to get the answers, and we need to do a full investigation within the United Nations. This is far too complicated to explain. This is simply a commercial so that I can come up another time and explain it to you. Madam Speaker, I will bring this back another night.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HOUSE POLICY COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Madam Speaker, I come tonight to report on the activity of the House policy committee this week. The Subcommittee on Health met for a hearing on medical liability insurance, and the purpose of this meeting was to outline in the current concept of medical liability reform and to point to some of the proven successes and to look at the future of reform. This meeting, which was held on Tuesday of this week, was attended by Jose Montemayor, who is the insurance commissioner of the State of Texas. Mr. Montemayor was appointed by then-Governor George Bush and has continued in that capacity since 1998.

We were also joined by Dr. Brennan Cassidy, a board-certified emergency physician from the State of California, who spoke on the status of tort reform in that State.

Paul Bahcarach, the president and CEO of Uniontown Hospital, was at our meeting and spoke about the particular problems that they are experiencing in Pennsylvania.

And Donald Palmisano, a physician and lawyer from New Orleans, who is the past president of the American Medical Association, spoke to us with considerable passion on what he believed some of the answers might be in the arena of tort reform.

First, Commissioner Montemayor from Texas talked about what he had seen in Texas since the passage of a major piece of tort reform legislation in Texas last year at the end of the regular State legislative session; and then

in September of last year, September 2003, a constitutional amendment was passed in the State of Texas which allowed this legislation to take effect.

In Texas, Commissioner Montemayor had seen his number of liability insurers, the number of companies that wrote insurance for physicians in Texas, decline from a high of 17 to a low of four; and Commissioner Montemayor correctly recognized that if that situation continued, medical practice as we know it was going to disappear from the State of Texas.

Texas is a large State, and very different regions were affected differently. The Rio Grande Valley was particularly hard hit, not necessarily in the dollar amounts that were awarded by juries in that region, but more so just by the sheer number of lawsuits. Most practitioners and physicians in that area could be expected to be sued three or four times a year, oftentimes for sums of money not exceeding $100,000, but still the time away from family and practice in defending those lawsuits and the wear and tear on a doctor's soul was considerable in that portion of the State.

Right before the constitutional amendment passed, there was a significant increase in the filing of lawsuits in the State of Texas; but since the constitutional amendment passed, the number of suits has dropped precipitously.

□ 2300

Commissioner Montemayor also pointed out to us that there are companies that are reducing their insurance rates to physicians in Texas as a result of this legislation, a constitutional amendment that was passed. And, in fact, Texas Medical Liability Trust, my old insurer of record, has reduced their rates by 12 percent this year.

Another insurer who sought a rate increase and, in fact, had received a rate increase of over 100 percent in the State of Oklahoma and 39 percent in the State of Florida actually is going to receive no rate increase in the State of Texas this year.

So it has been good news on not only the number of insurers that is available which has now increased to 12 but also the rates paid by hospitals and physicians in Texas has significantly reduced.

Commissioner Montemayor told us that he thought hospitals had fared somewhat better than physicians in this new day that has dawned in the State of Texas.

Dr. Cassidy, the emergency physician from California, was there in 1975 in California when the Medical Injury Compensation Reform Act of 1975 was passed in California by a Governor of California who was on the Democratic side, Jerry Brown, past candidate for president.

But Dr. Cassidy related how the $250,000 cap on non-economic damages had stood the test of time, and in fact he had some rather graphic evidence showing how rates in that State had stayed relatively stable while rates across the country had exploded.

Paul Bahcarach, the chief executive officer of Uniontown, Pennsylvania hospital where the situation has far from improved, in fact, the situation has deteriorated in Pennsylvania significantly over the past years, told some rather poignant stories of the inability to hire, to attract physicians to the State of Pennsylvania. He was not able to cover services that he wanted to provide; and, in fact, he told of a service area of 148,000 people that was serviced by one single ear, nose and throat physician. If I have done my arithmetic right, that is about one ENT doctor for 300,000 ears, which is a lot of ears to be responsible for in a community.

Dr. Palmisano, the general surgeon from New Orleans who has been the past president of the American Medical Association, again spoke with a good deal of passion on what he saw as some of the solutions available to us. We will talk about this in nights to come.

Dr. Palmisano gave excellent testimony on how the doctors in this country are engaged and see this as a real problem, threatening to their profession.

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The SPEAKER pro tempore (Ms. HARRIS). Under a previous order of the House, the gentleman from California (Mr. GEORGE MILLER) is recognized for 5 minutes.

(Mr. GEORGE MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. COX) is recognized for 5 minutes.

(Mr. COX addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

(Mr. MCDERMOTT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

(Mrs. MCCARTHY of New York addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

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The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

(Ms. LEE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

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The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

(Mr. CONYERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

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## REPUBLICAN PLAN FOR AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Kansas (Mr. TIAHRT) is recognized for half the time until midnight as the designee of the majority leader.

Mr. TIAHRT. Madam Speaker, while the Nation has been watching the Presidential campaign and the events in Iraq, the Republicans in the House have been moving forward with an agenda to bring jobs back into America.

Now, we have seen a lot of economic success over the last year. Just as a reminder, back in 1999 we had the first hit to our then strong economy when we had the tech bubble burst. We had a lot of technical industries lose a great deal of value. The NASDAQ, which typically has tech companies as the companies that trade on that exchange, the value of that exchange dropped dramatically to less than half. So the tech bubble burst.

Then in 2000 we had the beginning of the recession towards the end of the year. Technically, it started in the end of 2000 prior to President Bush being sworn into office. That had an impact on our economy.

Then, of course, there was the events of September 11, when terrorists took our own technology and turned it into a weapon and attacked the Pentagon and Washington, D.C., and tore down the World Trade Center, killing nearly 3,000 people. That had a dramatic impact on our economy.

It was not any policy of the Republican administration. It was not any policies that came out of the Republican House. It was events that occurred, as I just discussed, beyond the circumstances of Congress. Those events, though, have turned around since we passed tax relief.

Tax relief has been very beneficial to the American economy because people can only do one of three things when

they get a little money in their pocket through tax relief.

Number one, they can spend it. When they spend money, that is a demand for goods. That means there are more goods being sold in the economy and a demand for more jobs.

Number two, they can save the money. That makes money available for home mortgages. And, as we know, now we have the largest expansion of home sales we have ever had in our economy; and now minorities in America have a higher percentage of home ownership than ever before in the history of our Nation. If they save money, that is good for building homes.

Third, they can invest money into the stock market, which is capital for companies to invest in their business to hire more people and invest in jobs.

So after the President asked for tax relief and it was initiated in the House of Representatives and then passed to his desk for his signature, we started to see a turnaround in the United States economy. We have had 1.5 million new jobs since last August. We have today more people working in America than ever before in our Nation's history, and the average salary for all workers in America is higher than it has ever been in the history of our country.

So this has been very good for our economy to have tax relief, and we are starting to see the strength of our economy growing and blooming. And yet with all that good news, we can do better. We found out that there have been problems, barriers to bringing jobs into America. These barriers were not created in the boardrooms of America. They were not created by the CEOs of America or the managers or owners of small business, and it was not created by the employees themselves, either.

These barriers have been created by Congress over the last generation. Good intentions found their way into regulations and laws that have hurt our economy and prevented us from bringing jobs back into America. So the House Republicans have devised a plan called Careers for the 21st Century. That plan is a plan to remove the barriers that employees and small businessmen and employees, employers, both, face every day they go to work.

We are going to try to remove those barriers. In fact, we have been very active. As of today, we have passed 24 pieces of legislation from the House of Representatives. We have started with taking these eight issues that are barriers, divided into eight issues the barriers, and then we took them a week at a time.

We started out by addressing health care security. We passed legislation that will help reduce the cost of health care in America by some commonsense reforms.

We then moved on to reduce the bureaucratic red tape in America. We made significant progress.

We then went on to life-long learning so we would have an experienced and well-trained workforce so when these jobs came to America we would have people to take those jobs.

The next week we went on to energy self-sufficiency. It is very important and appropriate, because we are now facing close to $2 a gallon for gasoline, and we are having high cost for natural gas. It is time we change our energy policy so we can create about 7 or 800,000 jobs in America, plus bring down the cost of energy, and that in turn will allow us to attract more jobs into America. So we passed energy self-sufficiency and security.

We then moved on to spurring innovation and talked about how important it is to have solid research and development and how important it is to be innovative here in America. We have a long history of innovation that starts back during the Revolutionary War. The idea of the principles, the virtues, the values we have in this country enhance our ability to come up with good ideas and take those good ideas and put them into practice by manufacturing goods and selling those goods both here and overseas. It is these virtues and values we talked about and how we can continue to spur innovation through research and development.

This week we dealt with trade fairness and opportunity, very important issues as far as opening up new markets so that we can create more jobs by exporting.

Then we will go on next week to tax relief and simplification. Tax relief is so important, but simplification is also important. It helps us do the job more quickly and not waste money on preparing taxes. That money can be diverted to creating more jobs.

We will then come back in September and deal with Indian lawsuit abuse.

Going back to trade fairness and opportunity, why is it so important for us to address this issue? If you look at the recent history in this country, we have had lot of problems in opening up markets overseas. If you look at the trade agreements that we have had recently, it was during the Reagan administration that we finally got a free trade agreement with Israel back in 1985. Then we did not have any agreement until we finally got an agreement with Canada in 1988, again in the Reagan administration.

Then we moved on to Mexico in through the NAFTA agreement, and that was done in 1994 under the Clinton administration. And since then we have been able to get a free trade agreement with Jordan, with Singapore, with Chili, and today we passed from the House an agreement for free trade between Australia and America.

□ 2310

These types of agreements are very important because they open up markets for small companies. One of these success stories in America is a guy that lives in Wichita, Kansas. His name is Leon Trammel. Leon traveled around overseas and he saw a very real need and figured out a way to satisfy that need.

Many of the countries import grain or export grain. That grain has to be taken off the ship and put into some kind of storage container or it would have to be taken out of a storage container and put on to a ship. If it was an open conveyor belt to go between those two objects, the ship and the containment facility or the milling operation, if it was open to the environment, it was subject to environmental risk from rain and dust. It would be part of that, and he has figured out a way to convey grain or any other substance in a clean fashion by encasing these conveyor belts and using a century old principle of elevating these conveyor belts on a sheet of air. Much like you have on air hockey game that you can find at your local arcade.

Well, Leon took that, put it into practical application, and he has been able to take that technology all over the globe. He has used it in Norway, China, in Asia, as well as in America, Canada and Mexico. So he has been able to benefit from these free trade agreements that we have set into place.

Now, why is it important we have free trade agreements? Why does it mean something when we open up these markets? Here is a comparison of existing barriers on the sale of manufactured goods in foreign markets.

If you look at America, our levels are about 4.3 percent as an average for incoming goods. We put a tariff on that, a tax. It helps us with our Federal budget, but it is a tax that comes in, and it is an opportunity for us to attract goods and services into America.

But if you compare that to other parts of the world, we have Pakistan that has nearly 50 percent tariff. Now, how are we going to be able to export goods into Pakistan when we have that big of a barrier to overcome in just the amount of money that goes towards paying fees to Pakistan? As a result, they have a very weak economy. They should change that and open up the goods for trading.

Saudi Arabia has an almost 12½ percent tariff; Thailand near 15 percent. India has a 32 percent tariff. Their economies suffer from that, and it keeps us from exporting goods and services to them. It is important we negotiate these trade agreements so we can have lower trade fees for exports, and that allows us to more easily access their markets.

When they can open up the markets, as in South Korea, which has about 7½ percent, we can have people in small companies around the United States that can then trade with these countries.

There is a small company in Wichita, Kansas, called LP Technologies, Incorporated. The president is Samuel Lee. It is just a small company of eight employees, but their markets are Taiwan and Korea. They sell measuring and monitoring equipment for the communications industry. Their sales last

year were $1.8 million. Now, it does not seem like a lot in the scheme of things, but when you realize that four out of five jobs in Kansas are small employers like this, being able to start a whole lot of these small businesses is very good for our economy. It puts people to work and allows them to have their dreams come true and export agreements, free trade agreements are the things that open up that kind of a market.

Now what happens when you do not have a free trade opportunity? A good example is Creekstone Farm Premium Beef in Arkansas City. Now, Creekstone used to export meat to Japan and to South Korea, and then we had a cow come in from Canada that had BSE or mad cow disease. We were able to isolate that cow and it did not get into our meat markets, and we now have had measures put in place in Canada so that they can prevent this from happening again, but America has the safest meat supply in the world. There is no problem there, but yet Japan and South Korea were worried about it so they have closed their export markets.

What that meant to Creekstone is they have already laid off about 60 people. The 750 employees that are there now are cut back from a 5-day work week to a 4-day work week. We are trying to open up the markets by allowing some voluntary screening. That is being blocked by USDA right now, but as an example of closing markets, it means that we close down jobs in America. By opening up markets, we are going to open up jobs in America. So Creekstone is currently suffering from that. We are in the process of trying to change that environment.

Another success story, though, is a couple of Americans who came over from China as a result of the Tiananmen Square incident. Both of them have some experience in aerospace parts manufacturing, and they have some contacts in China through their families, but the company's name is Mid-American Supply Corporation and Tom Tian is the president.

They are a wholesaler of aircraft parts to the Chinese aircraft industry. They export to China. They exported $2.4 million worth of goods in fiscal year 2000. They came about with this idea that took advantage of open markets in China, and they went over there and created a company, and now they are very successful. It is another successful small business. These types of small businesses are very important for our economy.

Trade correctly spurs the economy, and it creates jobs by expanding markets for American business. We know all too well that economic and market changes brought about by trade do displace workers from specific jobs, but rather than turn to a trade barrier, which only slows our economy and leads to lower productivity and living standards, we are committed as House Republicans to preparing American workers for changes in ensuring higher paying and higher quality jobs for them by embracing free and fair trade opportunities.

We have had some people who have resisted change, trying to cling on to old jobs in America, and instead of looking forward, they sort of look backward. I think a good example is the railroad.

United Transportation Union was very hesitant to release firemen from off the engine on the railroad, the engines that pull the freight cars. If you think about it, we had firemen that were initially put on the engines of railroads so that they could shovel the coal into a furnace which then heated the water. That created steam which propelled the engine and pulled the cars down the track. Well, when they went from those old coal-burning engines and wood-burning engines that created steam and they went to a diesel engine that created electricity by turning a generator, which is what it works like today, there was no longer a need for somebody to shovel coal or throw wood into a furnace, but yet they insisted on keeping firemen on the engine, riding on the front of the train, and there was no need for it.

So years and years went by, even decades, and my brother-in-law works on the railroad now. He is a conductor on the railroad, and when he first started they still had firemen. Then they let the firemen go because there was no need for them. It was an inefficient job. Those guys have gone out, many of them have been retrained, and they are off learning new jobs and becoming more productive in America with productive jobs.

So we cannot look backwards. We need to make sure that we continue our productivity.

One way of ensuring it is to ensure that we have open trade agreements so that we will become more efficient, that we will prepare our work force for new technologies and we will be innovative and move forward.

The trade possibilities are endless. As President Bush said, look at it this way, America's got 5 percent of the world's population. That means that 95 percent of the potential customers are in other countries. Even if a great level of protectionism were implemented, low-tech jobs would still be replaced by technology or shifted to lower wage locations and overtime.

I think another good example is our agriculture environment here in America. If you go back to when I was just a young kid out on a farm, we had probably six families that were farming the ground that my grandfather owned. If you take those six families and look at them over the years, they gradually moved on to other things. My grandfather, and then later on my father, bought larger and larger equipment. They became more and more productive. Their crop yields increased, and yet their expense costs for labor went down.

□ 2320

So they went from having horses being involved in the agricultural process to having huge tractors that pulled eight-row and larger equipment. Well, the American farmer has become more and more productive and that productivity has ensured lower food costs. In fact, in America, we pay the lowest percentage of our income on food of any of our trading partners in the world. So it is very important that we continue to move forward with productivity as a way of having a strong economy.

There has been a lot of study on this issue, people who have looked into this and saw what impact there would be if we did not have trade, what impact there would be if we had more trade, and how important it is for us to open new markets. Ana Isabel Erias, from the Heritage Foundation, said, ''Goods and services flowing across borders foster new ideas and allow U.S. producers to learn about the markets from the failure and success of trading products. As they learn more, they are able to innovate and remain competitive.''

That is part of why America needs to support free trade, because it moves us forward. It does not collapse around us, but it moves us forward. The Heritage Foundation went on to say, ''Free trade allows the U.S. to specialize in goods and services that American workers produce more efficiently than the rest of the world, and at the same time free trade allows domestic producers to shop around the world for the least expensive inputs they can use for their production, which in turn allows them to keep their cost of production down, without sacrificing quality.''

So I think it is very important that we keep this concept of free trade moving forward. We have other countries that we need to open up markets in, and especially for our agricultural community, especially for aerospace products, and especially for these new technologies we are currently developing. It is important because that brings jobs into the country.

I have another chart that I want to move on to. This one talks about a geographic distribution of U.S. exports and imports from 1990 to 2002. Now, if we look at the top part of these, it looks like an eye test. The group of countries here, Canada, the European Union, Japan, and other advanced economies, in 1990 they used to make about 63.1 percent of our total exports. Today, or in 2002, that dropped slightly to 57.6 percent of our exports. On imports, the advanced economies consist of 58.7 percent of imports in 1990. By 2002, that dropped six points to 57.2.

But when we look at the developing countries, in 1990, that only consisted of 19.9 percent of our exports. By 2002, that had grown to 37 percent. Imports in 1990 from the developing countries was 36.1 percent. That has grown to 41.7 percent. So that is a very good indication of why we need to open up markets in developing countries and why

we need to look at some of these countries that have these high trade barriers and to negotiate those down to where they are closer to where ours are. That will help us export goods and develop new markets and bring jobs into America.

The four pieces of legislation that were included in this week's trade and fairness opportunity block of bills consisted of H.R. 4759, which was the United States-Australia Free Trade Agreement Implementation Act. That is going to allow us to open up markets in Australia and allow us to compete with agricultural goods and airplanes, like those airplanes made in Wichita, Kansas, the air capital of the world. It will be good for our economy.

We also passed H.R. 3463, which was the State Unemployment Tax Act Dumping Prevention Act. That allowed us to watch these companies that are trying to avoid State unemployment tax and bring them back in. This makes this unemployment tax system fairer to the other employers in the State and fairer to the employees who may have to suffer some unemployment at some time while they are being retrained. It brings these employers into line with other companies that they are competing with.

Then we passed H. Res. 705, urging the President to resolve the disparate treatment of direct and indirect taxes presently provided by the World Trade Organization.

And the last one we passed was H. Res. 576, urging the government of the People's Republic of China to improve its protection of intellectual property rights.

As we all know, the intellectual property rights have been greatly violated in China. We want them to crack down on that because it means that our developing ideas, our art, our books, our pharmaceutical advancements are protected by patents, and we want them to acknowledge that.

So these four bills have been added to the 20 bills we passed before with previous legislation in the eight categories. We have passed the first five categories, that included 20 bills, and these four add to that to make a total of 24.

Again, we started out with health care security, under the eight issues that are contained in the Careers For A 21st Century in America. We helped lower the cost of health care in America to make ourselves more competitive. Then we addressed bureaucratic red tape termination to cut down the bulk of paperwork that we have here that prevents us from expanding our economy. We then went on to lifelong learning so that we would have a trained workforce for these new jobs. We then dealt with energy self-sufficiency and security.

We moved on the following week to spurring innovation through research and development. This week, we dealt with trade fairness and opportunity. Next week we will be on tax relief and simplification. And then, in September, we are going to address the issue of ending lawsuit abuse.

These issues are barriers to bringing jobs back into America. Congress created this environment and the Congress is addressing that environment, changing it so that we can open markets, so that we can bring back workers into America and have a stronger economy. This will mean that our kids and our grandkids will have the opportunity to start the businesses they want to start or get the jobs that they want.

It has been a good program that we have dealt with here on the floor of the House. We hope that we can get it to the President's desk for signature, all 24 of these bills. We will continue this effort until we find the relief that is necessary to bring more jobs back into America.

We have heard a lot of people complain about outsourcing of American jobs. The problems that they are facing that cause outsourcing are these eight issues that Congress has created, and it is time we change that environment.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. KIND (at the request of Ms. PELOSI) for today on account of attending a funeral.

Mr. RANGEL (at the request of Ms. PELOSI) for today on account of attending a funeral.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. NORTON) to revise and extend their remarks and include extraneous material:)

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mrs. MCCARTHY of New York, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

(The following Members (at the request of Mr. TIAHRT) to revise and extend their remarks and include extraneous material:)

Mr. KING of Iowa, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

Mr. COX, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, July 15.

Mr. OSBORNE, for 5 minutes, July 19.

## ADJOURNMENT

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

The motion was agreed to; accordingly (at 11 o'clock and 27 minutes p.m.), the House adjourned until tomorrow, Thursday, July 15, 2004, at 10 a.m.

## EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports concerning the foreign currencies and U.S. dollars utilized for speaker-authorized official travel during the first quarter of 2003, the first quarter of 2004 and the second quarter of 2004, pursuant to Public Law 95–384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SMALL BUSINESS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 4 AND MAR. 31, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Trent Franks | 1/4 | 1/6 | Iraq/Jordan | | | | [3] | | 467.00 | | 467.00 |
| Bradley Knox | 1/21 | 1/25 | Hungary | | 840.50 | | [3] | | [4] 178.20 | | 662.30 |
| Adam Magary | 1/21 | 1/25 | Hungary | | 840.50 | | [3] | | [4] 178.20 | | 662.30 |
| Matthew Szymanski | 2/14 | 2/22 | China | | 1,314.00 | | 5,631.00 | | [4] 623.00 | | 6,945.00 |
| Ian Deason | 2/14 | 2/22 | China | | 1,910.00 | | 5,631.00 | | [4] 27.00 | | 7,541.00 |
| Adam Magary | 2/14 | 2/22 | China | | 1,865.00 | | 5,631.00 | | [4] 73.00 | | 7,496.00 |
| Hon. Chris Chocola | 2/29 | 3/3 | Libya | | 539.00 | | [3] | | [4] 360.00 | | 539.00 |
| Committee total | | | | | | | | | | | 24,312.60 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

[4] Returned.

DONALD A. MANZULLO, Chairman, June 29, 2004.

## AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 2003

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Travel to Russia and Austria, Jan. 9–18, 2003; Hon. Curt Weldon. | 1/9 | 1/13 | Russia | | −1,376.00 | | | | | | −1,376.00 |
| | 1/16 | 1/18 | Austria | | −204.00 | | | | | | −204.00 |
| Commercial airfare | | | | | | | −5,040.68 | | | | −5,040.68 |
| Committee total | | | | | −1,580.00 | | −5,040.68 | | | | −6,620.68 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DUNCAN HUNTER, Chairman, June 8, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. LORRAINE C. MILLER, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 3 AND APR. 9, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Lorraine C. Miller | 4/3 | 4/6 | Ireland | | 1,377.00 | | | | | | 1,377.00 |
| | 4/6 | 4/9 | Hungary | | 762.00 | | | | | | 762.00 |
| Committee total | | | | | 2,139.00 | | | | | | 2,139.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

LORRAINE C. MILLER, May 3, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MS. LIZ McBRIDE-CHAMBERS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 12 AND MAY 16, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Liz McBride-Chambers | 5/12 | 5/16 | Canada | 1,319.18 | 950.00 | | [3] 678.76 | | | 1.319.18 | 1,628.76 |
| Committee total | | | | 1,319.18 | 950.00 | | 678.76 | | | 1.319.18 | 1,628.76 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Paid to CATO.

LISBETH McBRIDE-CHAMBERS, June 15, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MR. JOHN C. COUGHLIN, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 23 AND MAY 28, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| John C. Coughlin | 5/23 | 5/25 | Uzbekistan | | 228.00 | | [3] | | | | 228.00 |
| | 5/25 | 5/27 | Qatar | | 148.00 | | [3] | | | | 148.00 |
| | 5/27 | 5/28 | Germany | | 253.00 | | [3] | | | | 253.00 |
| Committee total | | | | | 629 | | | | | | 629.00 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

JOHN C. COUGHLIN, June 24, 2004.

## REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO HAITI, HOUSE OF REPRESENTATIVES, EXPENDED ON APR. 23, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Mark Foley | 4/23 | 4/23 | Haiti | | | | [3] | | | | |
| Hon. Elijah Cummings | 4/23 | 4/23 | Haiti | | | | [3] | | | | |
| Hon. Cass Ballenger | 4/23 | 4/23 | Haiti | | | | [3] | | | | |
| Hon. Kendrick Meek | 4/23 | 4/23 | Haiti | | | | [3] | | | | |
| Hon. Jeff Miller | 4/23 | 4/23 | Haiti | | | | [3] | | | | |
| Hon. Gregory Meeks | 4/23 | 4/23 | Haiti | | | | [3] | | | | |
| Bradley Schreiber | 4/23 | 4/23 | Haiti | | | | [3] | | | | |
| Caleb McCarry | 4/23 | 4/23 | Haiti | | | | [3] | | | | |
| Jessica Lewis | 4/23 | 4/23 | Haiti | | | | [3] | | | | |
| Committee total | | | | | | | | | | | |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

MARK FOLEY, May 24, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO MEXICO, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 13 AND MAY 16, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. Jim Kolbe | 5/13 | 5/16 | Mexico | | 797.69 | | (3) | | | | 797.69 |
| Hon. Cass Ballenger | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Hon. David Dreier | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Hon. Charles Stenholm | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Hon. Joe Barton | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Hon. Donald Manzullo | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Hon. Jerry Weller | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Fran McNaught | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Patrick Baugh | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Jim Farr | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Jean Carroll | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Amy Serck | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Paul Oostburg Sanz | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Brad Smith | 5/13 | 5/16 | Mexico | | 335.05 | | (3) | | | | 335.05 |
| Delegation expenses | | | | | | | | | 3,710.28 | | 3,710.28 |
| Interpreters | | | | | | | | | 3,390.00 | | 3,390.00 |
| Committee total | | | | | 5,153.24 | | | | 7,100.28 | | 12,253.62 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

JIM KOLBE, June 10, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO FRANCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAY 24 AND MAY 27, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Martha Morrison | 5/25 | 5/27 | France | | 1,494.56 | | 5,968.30 | | 667.42 | | 8,130.28 |
| Don Kellaher | 5/25 | 5/27 | France | | 1,494.56 | | 5,968.30 | | | | 7,462.86 |
| Committee total | | | | | 2,989.12 | | 11,936.60 | | 667.42 | | 15,593.14 |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

J. DENNIS HASTERT, June 24, 2004.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ENGLAND AND FRANCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 3 AND JUNE 9, 2004

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| Hon. J. Dennis Hastert | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. John D. Dingell | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. Charles B. Rangel | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. Ralph Regula | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. Ike Skelton | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. Lane Evans | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. John M. Spratt, Jr | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. King | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. Robert W. Ney | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. John B. Shadegg | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. Mark E. Souder | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. Todd Tiahrt | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. John B. Larson | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. James L. Oberstar | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. Thomas E. Petri | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. Jerry Moran | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. J. Randy Forbes | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. Jeff Miller | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Scott Palmer | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Rick Kessler | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| John Russell | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Adm. John Eisold | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Chris Walker | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| John Feehery | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Martha Morrison | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Rev. Daniel Coughlin | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Dwight Comedy | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. Bill Livingood | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Ted Van Der Meid | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Christy Surprenant | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Mike Stokke | 6/4 | 6/5 | England | | 446.38 | | (3) | | | | |
| Hon. J. Dennis Hastert | 6/5 | 6/7 | France | | 1,500.34 | | | | | | |
| Hon. John D. Dingell | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Hon. Charles B. Rangel | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Hon. Ralph Regula | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Hon. Ike Skelton | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Hon. Lane Evans | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Hon. John M. Spratt, Jr | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Hon. King | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Hon. Robert W. Ney | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Hon. John B. Shadegg | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Hon. Mark E. Souder | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Hon. Todd Tiahrt | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Hon. John B. Larson | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Hon. James L. Oberstar | 6/5 | 6/8 | France | | 2,250.51 | | (3) | | | | |
| Hon. Thomas E. Petri | 6/5 | 6/8 | France | | 2,250.51 | | (3) | | | | |
| Hon. Jerry Moran | 6/5 | 6/8 | France | | 2,250.51 | | (3) | | | | |
| Hon. J. Randy Forbes | 6/5 | 6/8 | France | | 2,250.51 | | (3) | | | | |
| Hon. Jeff Miller | 6/5 | 6/8 | France | | 2,250.51 | | (3) | | | | |
| Scott Palmer | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Rick Kessler | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| John Russell | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Adm. John Eisold | 6/5 | 6/9 | France | | 3,000.68 | | (3) | | | | |
| Chris Walker | 6/5 | 6/8 | France | | 2,250.51 | | (3) | | | | |

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO ENGLAND AND FRANCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JUNE 3 AND JUNE 9, 2004—Continued

| Name of Member or employee | Date | | Country | Per diem [1] | | Transportation | | Other purposes | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | Arrival | Departure | | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] | Foreign currency | U.S. dollar equivalent or U.S. currency [2] |
| John Feehery | 6/5 | 6/8 | France | | 2,250.51 | | [3] | | | | |
| Martha Morrison | 6/5 | 6/8 | France | | 2,250.51 | | [3] | | | | |
| Rev. Daniel Coughlin | 6/5 | 6/8 | France | | 2,250.51 | | [3] | | | | |
| Dwight Comedy | 6/5 | 6/8 | France | | 2,250.51 | | [3] | | | | |
| Hon. Bill Livingood | 6/5 | 6/8 | France | | 2,250.51 | | 459.28 | | | | |
| Ted Van Der Meid | 6/5 | 6/7 | France | | 1,500.34 | | [3] | | | | |
| Christy Surprenant | 6/5 | 6/7 | France | | 1,500.34 | | [3] | | | | |
| Mike Stokke | 6/5 | 6/7 | France | | 1,500.34 | | | | | | |
| Don Kellaher | 6/1 | 6/7 | France | | 2,638.60 | | 5,960.27 | | 155.77 | | |
| Committee total | | | | | | | | | | | |

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

J. DENNIS HASTERT, July 9, 2004.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9056. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Ohio River, Marietta, OH [COTP Huntington-04-001] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9057. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; New York Maritime Inspection Zone and Captain of the Port Zone [CGD01-04-053] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9058. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Bucksport, SC [COTP Charleston 04-046] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9059. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Suisan Bay, Concord, California [COTP San Francisco Bay 04-012] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9060. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety zone; Atlantic Intracoastal Waterway, Bogue Sound, NC [CGD05-04-105] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9061. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Middle River, San Joaquin County, California [COTP San Francisco Bay 04-013] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9062. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Georgetown Channel, Potomac River, Washington, D.C. [CGD05-04-106] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9063. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Metro North Railroad Bridge over the Norwalk River, Norwalk, Connecticut [CGD01-04-075] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9064. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Huron, Harbor Beach, MI [CGD09-04-027] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9065. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Oneida, Brewerton, NY [CGD09-04-031] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9066. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Heart Island, Alexandria Bay, NY [CGD09-04-030] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9067. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Canal Fest, Tonowanda, NY [CGD09-04-035] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9068. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Port Huron, St. Clair River, MI [CGD09-04-023] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9069. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Detroit, Detroit River, MI [CGD09-04-024] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9070. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Saginaw River, Bay City, MI [CGD09-04-025] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9071. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Bear Creek Harbor, Ontario, NY [CGD09-04-032] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9072. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Rochester Harbor, Rochester, NY [CGD09-04-034] (RIN: 1625-AA00) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9073. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Fire-Suppression Systems and Voyage Planning for Towing Vessels [USCG-2000-6931] (RIN: 1625-AA60) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9074. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Training and Qualifications for Personnel on Passenger Ships [USCG-1999-5610] (RIN: 1625-AA24) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9075. A letter from the Project Counsel, USCG, Department of Homeland Security, transmitting the Department's final rule — Update of Rules on Aids to Navigation Affecting Buoys, Sound Signals, International Rules at Sea, Communications Procedures, and Large Navigational Buoys [USCG-2001-10714] (RIN: 1625-AA34) received July 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9076. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Gothenburg, NE [Docket No. FAA-2004-17423; Airspace Docket No. 04-ACE-24] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9077. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Class D Airspace; Ogden, Hill Air Force Base, UT [Docket No. FAA-2004-17493; Airspace Docket No. 04-ANM-04] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9078. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule —

Modification of Class E Airspace; Superior, NE [Docket No. FAA-2004-17432; Airspace Docket No. 04-ACE-30] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9079. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Tekamah, NE [Docket No. FAA-2004-17431; Airspace Docket No. 04-ACE-29] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9080. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Oshkosh, NE [Docket No. FAA-2004-17427; Airspace Docket No. 04-ACE-27] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9081. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Trinidad, CO [Docket No. FAA-2003-15996; Airspace Docket 03-ANM-04] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9082. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Minden, NE [Docket No. FAA-2004-17426; Airspace Docket No. 04-ACE-26] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9083. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Richmond, VA [Docket No. FAA-2004-17597; Airspace Docket No. 04-AEA-07] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9084. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Norfolk, Virginia [Docket No. FAA-2004-17900; Airspace Docket No. 04-AEA-08] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9085. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Norfolk, VA [Docket No. FAA-2004-17596; Airspace Docket No. 04-AEA-06] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9086. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Richmond, VA [Docket No. FAA-2004-17899; Airspace Docket No. 04-AEA-09] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9087. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Cozad, NE [Docket No. FAA-2004-17422; Airspace Docket No. 04-ACE-23] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9088. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Broken Bow, NE [Docket No. FAA-2004-18010; Airspace Docket No. 04-ACE-39] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9089. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Lexington, NE [Docket No. FAA-2004-18011; Airspace Docket No. 04-ACE-40] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9090. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Festus, MO [Docket No. FAA-2004-17148; Airspace Docket No. 04-ACE-14] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9091. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Cedar Rapids, IA [Docket No. FAA-2004-17144; Airspace Docket No. 04-ACE-10] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9092. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Chappell, NE [Docket No. FAA-2004-17421; Airspace Docket No. 04-ACE-22] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9093. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Hays, KS [Docket No. FAA-2004-16989; Airspace Docket No. 04-ACE-7] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9094. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Larned, KS [Docket No. FAA-2004-16990; Airspace Docket No. 04-ACE-8] received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9095. A letter from the Attorney, Research and Special Programs Administration, Department of Transportation, transmitting the Department's final rule — Hazardous Materials Regulations: Minor Editorial Corrections [Docket No. RSPA-2004-18575 (HM-189X)] (RIN: 2137-AE03) received July 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

## 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. HYDE: Committee on International Relations. H.R. 4654. A bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes (Rept. 108–603). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules. House Resolution 715. Resolution providing for consideration of the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–604). Referred to the House Calendar.

Mr. POMBO: Committee on Resources. H.R. 2715. A bill to provide for necessary improvements to facilities at Yosemite National Park, and for other purposes (Rept. 108–605). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON of Texas: Committee on Energy and Commerce. H.R. 2023. A bill to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes; with an amendment (Rept. 108–606 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Education and the Workforce discharged from further consideration. H.R. 2023 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. 2023. Referral to the Committee on Education and the Workforce extended for a period ending not later than July 14, 2004.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. HINOJOSA (for himself, Mr. GREEN of Texas, Mr. TURNER of Texas, Mr. BELL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FROST, Ms. JACKSON-LEE of Texas, Mr. GONZALEZ, Mr. EDWARDS, Mr. CARTER, Mr. HALL, Mr. CULBERSON, Mr. BRADY of Texas, Mr. THORNBERRY, Ms. GRANGER, Mr. HENSARLING, Mr. ORTIZ, Mr. RODRIGUEZ, Mr. SANDLIN, Mr. LAMPSON, Mr. REYES, Mr. BARTON of Texas, Mr. STENHOLM, Mr. DELAY, Mr. SMITH of Texas, Mr. DOGGETT, Mr. SESSIONS, Mr. NEUGEBAUER, Mr. BURGESS, Mr. BONILLA, Mr. PAUL, and Mr. SAM JOHNSON of Texas):

H.R. 4829. A bill to designate the facility of the United States Postal Service located at 103 East Kleberg in Kingsville, Texas, as the ''Irma Rangel Post Office Building''; to the Committee on Government Reform.

By Mr. TURNER of Texas (for himself, Mr. THOMPSON of Mississippi, Mr. DICKS, Ms. NORTON, Ms. JACKSON-LEE of Texas, Mr. ETHERIDGE, and Mr. LANGEVIN):

H.R. 4830. A bill to amend the Homeland Security Act of 2002 to direct the Secretary of Homeland Security to develop and implement a program to enhance private sector preparedness for emergencies and disasters; to the Committee on Transportation and Infrastructure.

By Mr. HEFLEY (for himself, Mr. LEWIS of Kentucky, and Mr. ALLEN):

H.R. 4831. 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; to the Committee on Energy and Commerce.

By Mr. HOUGHTON:
H.R. 4832. A bill to amend the Immigration and Nationality Act to permit representatives of the foreign press to enter the United States under the visa waiver program; to the Committee on the Judiciary.

By Mr. JOHN:
H.R. 4833. A bill to direct the Secretary of Education to extend the same level of increased flexibility to all rural local educational agencies under part A of title I of the Elementary and Secondary Education Act of 1965; to the Committee on Education and the Workforce.

By Mr. LIPINSKI (for himself, Mr. QUINN, and Mr. EMANUEL):
H.R. 4834. A bill to waive visa processing fees for nonimmigrant visitors who are nationals of countries providing combat troops in Afghanistan and Iraq; to the Committee on the Judiciary.

By Mr. POMBO (for himself, Mr. CALVERT, Mrs. WILSON of New Mexico, and Mr. PEARCE):
H.R. 4835. A bill to establish a water supply enhancement demonstration program, including the demonstration of desalination, and for other purposes; to the Committee on Resources.

By Mr. HUNTER:
H. Con. Res. 472. Concurrent resolution expressing the sense of Congress that the apprehension, detention, and interrogation of terrorists are fundamental elements in the successful prosecution of the Global War on Terrorism and the protection of the lives of United States citizens at home and abroad; 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. KING of New York (for himself, Mr. MCHUGH, Mrs. MALONEY, Mr. TOWNS, Mr. CASTLE, Mr. SMITH of New Jersey, Mrs. MCCARTHY of New York, Mr. BOEHLERT, and Mr. BURTON of Indiana):
H. Con. Res. 473. Concurrent resolution expressing the sense of Congress that the President should designate September 11 as a national day of voluntary service, charity, and compassion; to the Committee on Government Reform.

By Mr. GALLEGLY:
H. Res. 716. A resolution encouraging the people of the Bolivarian Republic of Venezuela to participate in a constitutional, peaceful, democratic, and electoral solution to the political crisis in Venezuela relating to the referendum to recall President Hugo Chavez; to the Committee on International Relations.

By Mrs. MALONEY (for herself, Mrs. LOWEY, Mr. SCHIFF, Mr. HASTINGS of Florida, Ms. ESHOO, Ms. MCCOLLUM, Mrs. MCCARTHY of New York, Mr. SCOTT of Georgia, Mr. KUCINICH, Mr. MOORE, Mr. CUMMINGS, Mr. GEORGE MILLER of California, Mr. WAXMAN, Mr. NADLER, Mr. MCDERMOTT, Mr. CONYERS, Ms. MCCARTHY of Missouri, Mr. HINCHEY, Mr. MCNULTY, Mr. DOYLE, Mr. LAMPSON, Mr. EMANUEL, Mr. BRADY of Pennsylvania, Mr. HINOJOSA, Mr. BISHOP of Georgia, Ms. JACKSON-LEE of Texas, Mr. BELL, Mrs. JONES of Ohio, Mr. SERRANO, Mr. ISRAEL, Mr. LANTOS, Mr. KANJORSKI, Mr. DINGELL, and Ms. WATSON):
H. Res. 717. A resolution honoring former President William Jefferson Clinton on the occasion of his 58th birthday; to the Committee on Government Reform.

By Mr. JOHN:
H. Res. 718. A resolution providing that the trade authorities procedures under the Bipartisan Trade Promotion Authority Act of 2002 shall not apply to any implementing bill submitted with respect to the Central American Free Trade Agreement; to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. OTTER.
H.R. 348: Mr. TIBERI.
H.R. 745: Ms. MCCOLLUM.
H.R. 811: Mr. NORWOOD.
H.R. 918: Mr. KLINE and Mr. GREENWOOD.
H.R. 1057: Mr. GARY G. MILLER of California.
H.R. 1205: Mr. CAPUANO, Mr. WEXLER, Mr. BERMAN, and Mr. VAN HOLLEN.
H.R. 1258: Ms. EDDIE BERNICE JOHNSON of Texas.
H.R. 1728: Mr. LEWIS of Kentucky.
H.R. 1873: Mr. NETHERCUTT.
H.R. 1930: Mrs. NAPOLITANO.
H.R. 2074: Mr. SHERMAN.
H.R. 2173: Ms. SCHAKOWSKY.
H.R. 2176: Mrs. MCCARTHY of New York, Mr. MORAN of Virginia, and Mr. EVANS.
H.R. 2400: Mr. REHBERG.
H.R. 2933: Mr. WALDEN of Oregon, Mr. PEARCE, and Mr. REHBERG.
H.R. 2959: Mr. SNYDER and Ms. WATSON.
H.R. 3103: Mr. CRANE.
H.R. 3142: Mr. DEUTSCH and Mr. KILDEE.
H.R. 3194: Mr. WHITFIELD and Mr. GREEN of Texas.
H.R. 3285: Mr. JOHN.
H.R. 3313: Mr. KING of Iowa and Mr. HASTINGS of Washington.
H.R. 3325: Ms. PELOSI.
H.R. 3363: Mr. SANDLIN.
H.R. 3558: Mr. GORDON, Ms. SCHAKOWSKY, and Mr. GILCHREST.
H.R. 3574: Mr. KENNEDY of Rhode Island.
H.R. 3579: Mr. SANDERS.
H.R. 3716: Mrs. CAPITO.
H.R. 3767: Ms. HERSETH and Mr. SANDLIN.
H.R. 3865: Mr. SANDERS and Mr. FROST.
H.R. 3888: Mr. LANTOS.
H.R. 4022: Mr. FERGUSON.
H.R. 4046: Mrs. KELLY and Mr. HOUGHTON.
H.R. 4048: Mr. MILLER of Florida.
H.R. 4067: Mr. TIERNEY.
H.R. 4080: Mr. PLATTS.
H.R. 4116: Mr. THOMPSON of Mississippi, Mr. SCHROCK, Mr. SHADEGG, Mr. TOOMEY, Mr. SMITH of New Jersey, and Mr. BOEHLERT.
H.R. 4119: Mr. SNYDER and Mr. LEWIS of Georgia.
H.R. 4236: Mr. STARK and Mr. WAXMAN.
H.R. 4237: Mr. STARK and Mr. WAXMAN.
H.R. 4258: Mr. MCINTYRE.
H.R. 4284: Mr. TIBERI, Mr. PETERSON of Minnesota, Mr. WALDEN of Oregon, Mr. MCCOTTER, and Ms. HARRIS.
H.R. 4306: Mr. ENGLISH.
H.R. 4343: Mr. CHABOT.
H.R. 4357: Mr. ISRAEL and Mrs. CHRISTENSEN.
H.R. 4370: Mr. ENGLISH.
H.R. 4440: Mr. SOUDER.
H.R. 4633: Mr. SNYDER.
H.R. 4634: Mr. ENGLISH, Mr. KENNEDY of Minnesota, and Mr. LARSON of Connecticut.
H.R. 4662: Ms. GINNY BROWN-WAITE of Florida.
H.R. 4715: Ms. GINNY BROWN-WAITE of Florida.
H.R. 4718: Mr. COLLINS and Mr. ROGERS of Kentucky.
H.R. 4748: Mr. MILLER of Florida and Mr. SENSENBRENNER.
H.R. 4769: Mr. ISRAEL.
H.R. 4773: Mr. JONES of North Carolina, Mr. PENCE, Mr. FRANKS of Arizona, Mr. KLINE, Mr. HENSARLING, Mr. BARRETT of South Carolina, Mr. SHADEGG, Mr. AKIN, Mrs. MYRICK, Mr. GOODE, Mr. GUTKNECHT, and Mr. CHOCOLA.
H.R. 4805: Mrs. MILLER of Michigan.
H.R. 4826: Mr. ROYCE.
H. Con. Res. 30: Mr. SHAYS.
H. Con. Res. 430: Mr. PAYNE, Mr. MCINTYRE, and Mr. EDWARDS.
H. Con. Res. 462: Mrs. MYRICK and Mr. BELL.
H. Con. Res. 465: Mr. GRIJALVA.
H. Con. Res. 467: Mr. GUTIERREZ, Mr. ROYCE, Mr. LAMPSON, Mr. GRIJALVA, Mr. SMITH of New Jersey, Mr. LIPINSKI, Mr. DOYLE, Ms. MCCARTHY of Missouri, Mr. COOPER, Mrs. CAPPS, Ms. ESHOO, and Mr. KILDEE.
H. Con. Res. 471: Mr. MCHUGH and Mr. HINCHEY.
H. Res. 466: Mr. SHERMAN.
H. Res. 485: Mr. HOBSON.
H. Res. 556: Mr. GRIJALVA and Mr. OLVER.
H. Res. 604: Mr. CALVERT.
H. Res. 666: Mr. HONDA.
H. Res. 689: Mr. SERRANO, Mr. MATSUI, Mr. TIERNEY, Mr. BLUMENAUER, Mr. CAPUANO, Ms. KAPTUR, Ms. WATERS, Mr. EVANS, Mr. SANDERS, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. KUCINICH, Mr. FATTAH, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. UDALL of New Mexico, Mr. TOWNS, Mr. GRIJALVA, Mr. BERMAN, and Mr. DOGGETT.
H. Res. 690: Mr. EMANUEL, Ms. DELAURO, Mr. KUCINICH, Mr. EVANS, Ms. HARMAN, Mr. UDALL of New Mexico, Mr. FILNER, Mr. PALLONE, Mr. ACEVEDO-VILA, Mr. BISHOP of New York, Mr. OWENS, Mr. BROWN of Ohio, Mr. CASE, Mr. SCOTT of Virginia, and Mr. BELL.
H. Res. 699: Mr. SERRANO, Mr. MATSUI, Mr. TIERNEY, Mr. BLUMENAUER, Mr. CAPUANO, Ms. KAPTUR, Ms. WATERS, Mr. EVANS, Mr. SANDERS, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. KUCINICH, Mr. FATTAH, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BISHOP of Georgia, Mr. PAYNE, Mr. UDALL of New Mexico, Mr. TOWNS, Mr. GRIJALVA, Mr. BERMAN, and Mr. DOGGETT.
H. Res. 700: Mr. SERRANO, Mr. MATSUI, Mr. TIERNEY, Mr. BLUMENAUER, Mr. CAPUANO, Ms. KAPTUR, Ms. WATERS, Mr. EVANS, Mr. SANDERS, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. KUCINICH, Mr. FATTAH, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. UDALL of New Mexico, Mr. TOWNS, Mr. GRIJALVA, Mr. BERMAN, and Mr. DOGGETT.
H. Res. 713: Mr. CROWLEY, Mr. KENNEDY of Minnesota, Mr. SESSIONS, Mr. WEXLER, Mr. SHIMKUS, Mr. BURTON of Indiana, Mr. PORTER, Mr. FEENEY, Mr. AKIN, Mr. SHERMAN, Mr. CHANDLER, Mr. CHABOT, Mr. SAXTON, Mr. SCHIFF, Mr. NORWOOD, Mr. FOLEY, Mr. JONES of North Carolina, Mr. DEMINT, Mr. RYUN of Kansas, Mr. MCNULTY, Mr. SOUDER, Mr. CRANE, Mrs. MCCARTHY of New York, Mr. FRANKS of Arizona, Mr. NADLER, Mr. SANDLIN, Mr. OTTER, Mr. CANTOR, Mr. MCHUGH, Mr. BURNS, Mr. LINDER, Mr. SMITH of New Jersey, Mr. KING of Iowa, Mrs. JO ANN DAVIS of Virginia, Mr. MILLER of Florida, Mr. ENGEL, Mrs. MYRICK, Mr. BARTLETT of Maryland, Mr. FROST, and Mr. TIAHRT.

## AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 4818

OFFERED BY: MR. BLUMENAUER

AMENDMENT NO. 8: In title III, in the item relating to ''FOREIGN MILITARY FINANCING

PROGRAM'', after the first dollar amount, insert the following: ''(reduced by $20,000,000)''.

In title IV, in the item relating to ''GLOBAL ENVIRONMENT FACILITY'', after the dollar amount, insert the following: ''(increased by $13,177,734)''.

H.R. 4818

OFFERED BY: MR. FARR

AMENDMENT NO. 9: At the end (before the short title), add the following:

UNITED STATES MILITARY PERSONNEL IN COLOMBIA

SEC. ____. None of the funds made available in this Act may be made available for the assignment of any United States military personnel for temporary or permanent duty in Colombia if that assignment would cause the number of United States military personnel so assigned to exceed 550.

H.R. 4818

OFFERED BY: MS. JACKSON-LEE OF TEXAS

AMENDMENT NO. 10: Page 13, line 2, insert before the period at the end the following: '': *Provided further*, That of the funds appropriated under this heading that are made available for agricultural development in sub-Saharan Africa, not less than $5,000,000 shall be made available for small-scale irrigation, water and drainage, post-harvest storage, crop intensification, crop and livestock diversification, and rural infrastructure, such as in the Special Programme for Food Security of the Food and Agriculture Organization of the United Nations (FAO)''.

H.R. 4818

OFFERED BY: MR. KENNEDY OF MINNESOTA

AMENDMENT NO. 11: In title II, in the item relating to ''MILLENNIUM CHALLENGE CORPORATION'', after the aggregate dollar amount insert ''(increased by $250,000,000)''.

In title II, in the item relating to ''GLOBAL HIV/AIDS INITIATIVE'', after the aggregate dollar amount insert ''(increased by $90,000,000)''.

In title IV, in the item relating to ''CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION'', after the dollar amount insert ''(reduced by $425,000,000)''.

H.R. 4818

OFFERED BY: MS. KILPATRICK

AMENDMENT NO. 12: At the end of the bill (before the short title), insert the following:

LIMITATION ON CONTRACTS

SEC. ____. None of the funds made available under this Act may be used to fund any contract in contravention of section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)).

H.R. 4818

OFFERED BY: MR. LANTOS

AMENDMENT NO. 13: Page 18, line 22, after ''$2,450,000,000'', insert the following: ''(increased by $570,000,000)''.

Page 19, line 3, after ''$535,000,000'', insert the following: ''(increased by $570,000,000)''.

Page 42, line 13, after ''$4,777,500,000'', insert the following: ''(reduced by $570,000,000)''.

Page 42, line 16, after ''$1,300,000,000'', insert the following: ''(reduced by $570,000,000)''.

H.R. 4818

OFFERED BY: MR. LANTOS

AMENDMENT NO. 14: Page 18, line 22, after ''$2,450,000,000'', insert the following: ''(increased by $325,000,000)''.

Page 19, line 3, after ''$535,000,000'', insert the following: ''(increased by $325,000,000)''.

Page 19, line 8, after ''fiscal years:'', insert the following: ''*Provided further*, That of the amounts that are made available under the previous proviso for Egypt, $325,000,000 shall not be obligated until after September 1, 2005:''.

Page 42, line 13, after ''$4,777,500,000'', insert the following: ''(reduced by $325,000,000)''.

Page 42, line 16, after ''$1,300,000,000'', insert the following: ''(reduced by $325,000,000)''.

H.R. 4818

OFFERED BY: MRS. MALONEY

AMENDMENT NO. 15: At the end of the bill (before the short title), insert the following:

LIMITATION ON CONTRIBUTIONS TO UNITED NATIONS POPULATION FUND

SEC. ____. None of the funds made available in this Act under the heading ''INTERNATIONAL ORGANIZATIONS AND PROGRAMS'' may be made available for the United Nations Population Fund except for the Campaign to End Fistula.

H.R. 4818

OFFERED BY: MRS. MALONEY

AMENDMENT NO. 16: At the end of the bill (before the short title), insert the following:

LIMITATION ON CONTRIBUTIONS TO UNITED NATIONS POPULATION FUND

SEC. ____. None of the funds made available in this Act under the heading ''INTERNATIONAL ORGANIZATIONS AND PROGRAMS'' may be made available for the United Nations Population Fund for activities other than the prevention, remedy, and repair of obstetric fistula.

H.R. 4818

OFFERED BY: MR. PAUL

AMENDMENT NO. 17: Title II of the bill is amended by striking the item relating to ''MILLENNIUM CHALLENGE CORPORATION''.

H.R. 4818

OFFERED BY: MR. PAUL

AMENDMENT NO. 18: At the end of the bill (before the short title), insert the following:

PROHIBITION ON ASSISTANCE TO THE GOVERNMENT OF PAKISTAN

SEC. ____. None of the funds made available in this Act may be used to provide assistance to the Government of Pakistan.

H.R. 4818

OFFERED BY: MR. SANDERS

AMENDMENT NO. 19: At the end of the bill (before the short title), insert the following:

LIMITATION ON PROVISION BY EXPORT-IMPORT BANK OF CREDIT TO ENTITIES REINCORPORATING OVERSEAS

SEC. ____. None of the funds made available in this Act may be used by the Export-Import Bank of the United States to approve a comprehensive guarantee, political risk guarantee, or direct loan to any entity that provides to the Export-Import Bank of the United States an income statement or any other information as part of the application process that shows that the entity or a corporate parent of the entity is incorporated or chartered in Bermuda, Barbados, the Cayman Islands, Antigua, or Panama.

H.R. 4818

OFFERED BY: MR. SHERMAN

AMENDMENT NO. 20: In the item relating to ''UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT—CHILD SURVIVAL AND HEALTH PROGRAMS FUND'', after the aggregate dollar amount, insert the following: ''(increased by $290,000,000)''.

In the item relating to ''UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT—CHILD SURVIVAL AND HEALTH PROGRAMS FUND'', after the third dollar amount, insert the following: ''(increased by $290,000,000)''.

In the item relating to ''CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION'', after the aggregate dollar amount, insert the following ''(reduced by $359,000,000)''.

H.R. 4818

OFFERED BY: MR. TANCREDO

AMENDMENT NO. 21: At the end of the bill (before the short title), insert the following:

WITHHOLDING OF ASSISTANCE FOR CERTAIN FOREIGN COUNTRIES

SEC. ____. Notwithstanding any other provision of law, the President shall withhold bilateral assistance allocated for a foreign country under any heading of this Act by an amount equal to the aggregate amount of cash remittances sent by nationals of the foreign country residing in the United States to persons residing in the foreign country during fiscal year 2004.

United States
*of* America

# Congressional Record

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

*Vol. 150* WASHINGTON, WEDNESDAY, JULY 14, 2004 *No. 97*

# *Senate*

The Senate met at 9:30 a.m. and was called to order by the Honorable CHUCK HAGEL, a Senator from the State of Nebraska.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain from Omaha, NE, the pastor of Countryside Community Church, the Reverend Donald Longbottom.

## PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Creator God, give us insight to see the things our eyes overlook: Your infinite stars hanging low over the prairie on a winter's night, the rhythms of the tides as they ebb and flow like history itself.

Open our hearts to feel the things our hands cannot touch: The continuing presence of the pioneering spirits who came before us, who are no more, yet remain with us still. Open our ears to hear Your still small voice echoing quietly on the evening breeze. Teach us, O God, to seek presence in the flash and thunder of a springtime storm, in the gentle pattern of a summertime rain. Remind us, O God, that though fall may turn our beloved land dormant brown, Your care and concern remain vital and alive throughout the seasons.

Although You are called by many names, You remain beyond our naming and our taming. Rich, poor, powerful, weak, young or old, courageous or meek, famous or infamous, we are all Your creation. No matter our color, creed, sexual orientation, or nation of origin—we are all Your children, just people seeking to make a life.

O God, we pray for peace and justice in America and throughout our world. Inspire our leaders, make them wise and compassionate. Bless them as they guide our Nation through fearful and chaotic times. Empower them to bring human history into a wondrous era of joy and harmony.

In these things and in all things, Lord, we humble ourselves before You and seek Your guidance. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable CHUCK HAGEL led the Pledge of Allegiance, as follows:

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

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, July 14, 2004.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHUCK HAGEL, a Senator from the State of Nebraska, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. HAGEL thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

## SCHEDULE

Mr. STEVENS. Mr. President, this morning there will be a period for morning business for up to 30 minutes with the majority leader or his designee in control of the first 15 minutes and the Democratic leader or his designee in control of the final 15 minutes. Following morning business, we will resume consideration of the motion to proceed to the marriage amendment. The time until 12 noon will be equally divided for debate on the motion. At noon, the Senate will proceed to a cloture vote on the motion to proceed to the joint resolution. The cloture vote will be the first vote of the day.

The leader has mentioned the Australian free trade legislation and the desire to finish that bill this week. In addition, as mentioned last night, the Senate needs to move forward with respect to the FSC/ETI JOBS measure and appoint conferees. Therefore, Senators should anticipate additional votes during the session.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senate minority leader is recognized.

## ORDER OF BUSINESS

Mr. DASCHLE. If I may ask the acting majority leader a question, there was some lack of clarity with regard to the schedule. It appears as if the next order of business will be the Australian free trade agreement. Is it the expectation of the majority that we would take up the Australian free trade agreement this afternoon?

Mr. STEVENS. Mr. President, that is my understanding. However, there was also mention that the leader desires to discuss moving to the JOBS measure. That discussion may take place between the two leaders prior to the cloture vote.

Mr. DASCHLE. I thank the acting majority leader.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 30 minutes, with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee.

The Senator from Nevada.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that both sides, Republicans and Democrats, have their full 15 minutes for morning business.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, that would mean the vote for 12 o'clock may slip a little bit because of the time that is already indicated. I ask unanimous consent that the full hour also be given to each side on the time set for debate on the motion for cloture.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Nebraska.

THE GUEST CHAPLAIN

Mr. HAGEL. Mr. President, I want to briefly recognize the distinguished guest Chaplain this morning from Omaha, NE. Reverend Longbottom is a very important part of our community in Nebraska. His spiritual guidance, his involvement in so many civic activities has set him apart over the years, in part because he is one of those individuals who actually gets down into the universe of areas of concern and applies the spiritual to the practical. For that, our State has benefited greatly. I also wish to recognize Reverend Longbottom's wife Lori who accompanied him to Washington as well. We in Nebraska are very proud of the Longbottoms. I am very proud to say a few words about him. I particularly appreciated the President pro tempore allowing me to open the Senate to recognize my constituent and friend, Reverend Longbottom.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Missouri is recognized.

IRAQ

Mr. BOND. Mr. President, I rise to talk about the intelligence we had prior to going into Iraq and the decision that was made overwhelmingly—by I believe 77 votes in this body—to authorize the use of force against Iraq. Today we have received the copy of the Butler report in Great Britain talking about their intelligence failures as well. Lord Butler examined the intelligence the British Government had and found there were problems in their intelligence as well. But they did an in-depth assessment of what they knew then and what they know now.

I thought it was very interesting, since yesterday on this floor a question had been raised about the statement President Bush made in his address to a joint session of both Houses of Congress that Saddam Hussein had sought uranium from Africa.

Conclusion No. 499 in the Butler report is as follows:

> We conclude that, on the basis of intelligence assessments at the time, covering both Niger and the Democratic Republic of Congo, the statements on Iraqi attempts to buy uranium from Africa in the Government's dossier and by the Prime Minister in the House of Commons, were well-founded.

By extension, we also conclude that the statement in President Bush's State of the Union Address of 28 January, 2003, that the British Government has learned that Saddam Hussein recently sought significant quantities of uranium from Africa was well-founded.

In other words, an examination by the committee, headed by Lord Butler, to examine intelligence produced by the British Intelligence Service was accurate, that Iraq was seeking uranium from Africa as part of its nuclear weapons program. So much for the charges by many—some in this body—that there was no basis for this statement that President Bush made, based on British intelligence that Iraq was seeking uranium from Africa and that it was not well-founded. It was. And on that, we now have a conclusion from Lord Butler that was the case.

I think the issue was more fully discussed, obviously, in the conclusions of the Senate Select Committee on Intelligence and in the separate opinion, separate findings produced by Chairman ROBERTS, to which I and other members of the committee signed off.

Today, as I came to work, I heard on the radio a very regrettable and unfortunate opinion piece by a writer from the Washington Post, saying that, obviously, President Bush should not have gone into Iraq, saying in effect that taking down Saddam Hussein was wrong. He was telling our troops, who are on the ground risking their lives—and too many who have given up their lives—we are fighting in vain. That is absolute nonsense. It is regrettable that we have forgotten during a time of war that, generally, politics stops at the water's edge.

As I have mentioned before on the floor, there seems to be a concerted effort by our friends in the other party to contend that, because the intelligence was not as good as it should have been, we should not have gone in and deposed the murderous tyrant who had not only slaughtered tens of thousands of his own people, the Kurds, invaded Kuwait, and threatened Saudi Arabia, but also provided a harbor for terrorists such as al-Qaida and Abu al-Zarqawi's group.

I have had the opportunity to talk to some of the young men and women who have put their lives on the line in Iraq. I would trust their judgment far more than I would trust a political hatchet job by a writer who is trying to score political points against the President and the Vice President.

Let me go back to a couple of conclusions from the Senate Select Committee on Intelligence.

Conclusion 92, on page 345, says:

> The CIA's examination of contacts, training, and safe haven and operational cooperation as indicators of a possible Iraq/al-Qaida relationship was a reasonable and objective approach to the question.

Conclusion 95, on page 347, says:

> The CIA's assessment on safe haven that—that al-Qaida or associated operatives were present in Baghdad and northeastern Iraq in an area under Kurdish control—was reasonable.

In other words, judgments were reasonable that this was a country harboring terrorists. Thinking back, do you know what the President said? He said that we are going to carry the war to the terrorists. We are going to go after them where they hide, where they take refuge. We wiped them out in Afghanistan and we had to go into Iraq where they were also gaining safe haven.

To say we are not significantly safer in the United States, or people around the world, our allies, and free people are not safer as a result of deposing Saddam Hussein is pure nonsense. Unfortunately, we are at war with the terrorists. The terrorists were in Iraq. They had access to the weapons of mass destruction that Saddam Hussein had produced in the past and was willing to produce in the future.

Over the last few days, we all have heard briefings on recent increased threats in the United States. Today, had we not acted in Iraq, we would be even more at risk to the possibility of terror, and the likelihood that those terrorist attacks would have included chemical or biological weapons would have been far greater.

Our examination of what happened, what was going on in Iraq, conducted after the war found there were significant production capabilities for chemical and biological weapons in Iraq. There were terrorists there who were seeking to gain access to these weapons. Did we find large stockpiles? No. Did we expect to find large stockpiles? No. At best, they said the amount of chemical and biological weapons would be less than would fill a swimming pool.

But the problem with these chemical and biological weapons, whether they be ricin, sarin gas, anthrax, or smallpox, very small amounts can cause significant death, damage, and destruction to the United States. The potential to kill people with these deadly biological and chemical weapons was terrific, and we are safer because we took him out.

Do we know if we have captured all of the weapons of mass destruction that he produced? No. We cannot know that. We will find out more, I believe, as the Iraqi Government takes steps, through its own security forces, to go after the known and suspected terrorists, to find where they are. We have

heard reports about chemical and biological weapons being dispersed. We cannot confirm where they are. We only hope and pray they are not in the hands of terrorists who have made their way to the United States. But only time will tell.

Conclusion 97, which is on page 348 of the Intelligence Committee report, concluded:

The CIA's judgment that Saddam Hussein, if sufficiently desperate, might employ terrorists with global reach—al-Qaida—to conduct terrorist attacks in the event of war, was reasonable.

And of course it was reasonable; after all, we already knew Saddam Hussein was supporting terrorists such as the Arab Liberation Front, and he was offering money to the families of suicide bombers, particularly Hamas. We know he had the ability to turn his manufacturing capabilities, with the scientists he had, into the production of chemical and biological weapons.

We know how tragic the terrorist attack of 9/11 was on our soil. We lost over 3,000 people. They used unconventional weapons—airplanes loaded with fuel—to cause those deaths. I tremor to think about what could happen if chemical or biological weapons were used in large areas where unsuspecting civilians are gathered in the United States.

After what happened on 9/11, we had many investigations saying why didn't we put all of those elements together? They were very fragmentary. We had walls that prevented us from sharing that information among our intelligence agencies. It would have been almost impossible, even in hindsight, to connect all the dots and know what was going to happen on 9/11.

After that, intelligence analysts were under great pressure to try to identify potential attacks on the United States, or the potential use by terrorists of weapons of mass destruction and they overstated many of those conclusions. But what we know from our own experience is that Saddam Hussein consistently engaged in a pattern of denial and deception. He made it very difficult to find out what he was doing. We know from his actions what a deadly, murderous terrorist he was. By removing the Saddam Hussein regime, we eliminated yet another front from which terrorists could operate safely; most importantly, we eliminated the possibility that Saddam's weapons programs in the future could be leveraged by terrorists who seek to destroy us.

Finding huge stockpiles of weapons was not the objective of going into Iraq. The failure to do so should not be taken as a measure of the lack of success in Iraq. Prime Minister Tony Blair today said, on receiving the Butler report, that we were right to go into Iraq. He has been a steadfast ally, and we commend him.

We also have the interim report of the Iraqi Survey Group. We spent a long time listening to Dr. David Kay in our closed sessions, but he has issued an interim report that we can quote. That interim report noted finding ''dozens of WMD-related program activities and significant amounts of equipment that Iraq concealed from the United Nations during the Inspections that began in late 2002.''

Some of these included, for example:

A clandestine network of laboratories and safehouses within the Iraqi Intelligence Service that contained equipment subject to U.N. monitoring and suitable for continuing CBW research.

That is chemical and biological weapons research.

A prison laboratory complex, possibly used in human testing of BW agents, that Iraqi officials working to prepare for U.N. inspections were explicitly ordered not to declare to the U.N.

The PRESIDENT pro tempore. The Senator's time has expired.

Mr. BOND. Mr. President, is there any time remaining on our side?

The PRESIDENT pro tempore. No.

Mr. BOND. Mr. President, I ask for 1 more minute to conclude.

The PRESIDENT pro tempore. I believe the Senator has 49 seconds remaining.

Mr. BOND. Mr. President, I will do the best I can with the time remaining to conclude.

Dr. David Kay said he thought ''it was absolutely prudent'' going into Iraq. He went on to say:

In fact, I think at the end of the inspection process, we'll paint a picture of Iraq that was far more dangerous than even we thought it was before the war. It was a system collapsing. It was a country that had the capability in weapons of mass destruction areas and in which terrorists, like ants to honey, were going after it.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time and reserve the time left under morning business for my colleagues.

## INCREASING NUMBER OF UNINSURED FAMILIES IN AMERICA

Mr. DASCHLE. Mr. President, this morning we were again reminded of how much remains to be done in addressing the health care crisis in America. Today's paper has this headline: ''Medicare Law Is Seen Leading to Cuts in Drug Benefits for Retirees.'' According to the article, the government is now estimating that 3.8 million retirees who currently receive prescription drug benefits through their employers will see their coverage reduced or eliminated as a result of the Republican drug law passed last fall.

That is simply unacceptable, and it is only one of the many problems we are facing when it comes to health care. Over the past several years, the cost of health insurance has skyrocketed, and millions more Americans have found themselves uninsured.

A while back, I held a ''living room meeting'' on health care costs in Sioux Falls. An older, married couple came to that meeting. He's a veteran, 68 years old, with diabetes and congenital heart failure. She's 62, with cerebral palsy. Last year, shortly after the husband retired, this couple learned that the wife's bladder cancer had come back. This couple pays $418 a month in health insurance premiums through COBRA, plus another $400 a month for prescriptions, and more on top of that in co-pays for doctor visits. Soon, their COBRA eligibility will expire.

The husband is on a waiting list—a waiting list—to see a VA doctor. But they don't know how they will pay for the wife's health care after they lose their current insurance coverage. Individual coverage for a 62-year-old woman with cerebral palsy and cancer would be prohibitively expensive—if they could get it at all. So, after nearly 20 years of marriage, this couple is contemplating divorce as the only option for getting essential health care for the wife.

If this Senate wants to protect American families, let's discuss what we can do to make health care more affordable and accessible so that spouses don't have to consider divorcing each other in order to get essential health care.

Forty-four million Americans were uninsured in 2002—the most recent year for which figures are available. That's 2.4 million more Americans without health insurance than the year before—the largest 1-year increase in a decade. Eight-and-a-half-million of those 44 million Americans are children. Sixteen million are women, many in their child-bearing years.

As shocking as those figures are, they tell only half the story—literally. A new study conducted for Families USA, using census data, shows that almost 82 million Americans—one in three Americans younger than 65—were uninsured at some point in the last two years. Two thirds were uninsured for at least six months. Half were uninsured for 9 months or longer.

Who are these people? They're working people, mostly. Eighty percent of uninsured Americans live in families in which at least one adult works. But their employers don't offer health insurance, or their pay is so low they can't afford to buy it. A growing number are middle class. One in four had family incomes between $55,000 and $75,000.

In South Dakota, more than 27 percent of people younger than 65 were uninsured for at least some part of the last 2 years. That's 180,000 people living with the fear that they are just one serious illness or accident away from financial disaster.

In 14 States, according to the Families USA study, more than one-third of all people younger than 65 were uninsured for at least part of the last two years. One in three people. The State with the highest percentage of uninsured was Texas: 43.4 percent.

We have the highest per capita health care spending of any nation on Earth. Yet, in comparison with other developed, high-income nations, the United States consistently scores at or near the bottom on infant mortality, life expectancy, and the proportion of the population with health insurance.

We hear a lot today about who is more optimistic about America's economy and our future. I believe it is pessimistic to look at the state of health care in America today and conclude that we really can't do much better. I believe it is pessimistic to watch the cost of health care increase sharply every year; to watch the number of uninsured Americans grow every year; and to watch more businesses be forced to reduce or eliminate employee and retiree health benefits every year—year after year—and conclude there isn't really much of anything we can do about it. And I believe it is deeply irresponsible for this Senate to spend almost no time on serious discussions of responsible proposals to address this crisis. People all across America are looking to us for help on health care.

Lowell and Pauline Larson are two of those people. I've known the Larsons for years. Lowell is 68, almost 69. Pauline turned 64 on the Fourth of July. They live in Chester, SD. Lowell Larson has worked hard all his life. He started work in a furniture mill in Sioux Falls just out of high school and stayed there for 20 years before he finally got the chance—about 30 years ago—to do what he'd wanted all his life: own his own farm.

It's a small farm—160 acres. The Larsons raised corn and beans and kept a few cows. It's hard work. I don't think Mr. Larson would mind me telling you, he and Pauline don't have much money. Small family farmers don't make much money. Some years, if the weather's bad, or the market is weak, they don't make any money.

What Lowell Larson does have, in abundance, is a strong sense of personal and family responsibility. It's part of the South Dakota ethic. It's what we're taught, and what we teach our children: If someone you love needs help, you help them. And if you owe someone money, you do everything you can to pay them.

When Lowell Larson was a young man, his mother had a stroke. He postponed marriage and spent 20 years caring for her. After his mother died, Lowell met Pauline. At 45, he finally married. A few years later, Pauline began having trouble walking, and she was diagnosed with MS. Over the next few years, she progressed from a cane to a wheelchair.

In early November 2002, Pauline had a serious stroke. She spent a few weeks in the hospital, followed by a few months in a nursing home. Then she had to have her gall bladder removed—more time in the hospital. In less than 2 years, the Larsons ended up with $40,000 in medical bills from Pauline's stroke and surgery. On top of that, they spend more than $200 a month on muscle relaxants and other medications Pauline needs for her MS.

The Larsons used to have private health insurance. But it got so expensive, they gave it up about 5 years ago. ''We didn't know she was going to have a stroke,'' Lowell says.

Today, Lowell Larson gets Medicare. Pauline has a very bare-bones health policy that pays $75 a day for hospital care and $50 a day for nursing home care—nothing else. Last year, the Larsons held a sale. They sold many of their personal possessions and much of their farm equipment to raise money to pay their medical bills. The sale brought in about $30,000. Lowell Larson talked with doctors and hospitals and got them to forgive another few thousand dollars of their debt.

Lowell Larson brought Pauline home from the nursing home about 18 months ago because they couldn't afford the $4,000 a month it cost and because they were both too lonely living apart. These days, Pauline spends most of her time in a hospital bed set up in their home. She has difficulty speaking. She also has trouble using her right arm, which makes it hard for her to feed herself.

It can wear you down, living with the fear that your family is just one more medical emergency away from financial disaster. Lowell Larson says, ''A lot of mornings, I wake up around 4:30 or 5 o'clock and I just start worrying about things.'' The Larsons are counting the days until Pauline turns 65 and can get Medicare.

Since President Bush took office, family health care premiums have increased by more than $2,700 a year. The average cost for a family health plan is now $9,000 a year. Workers pay about $2,400 of that amount out of their own pockets. That's just for premiums. It doesn't include copayments and deductibles. And these are the people in the best situations; they have access to group plans through their employers. This is just one more example of how the middle class is being squeezed in America. Families are paying more for skimpier coverage every year. Unless we act, the number of families without health insurance will continue to grow.

And the consequences of un-insurance are staggering. People without insurance use one-third less health care. They skip preventive care and regular check-ups. They don't fill prescriptions. They postpone surgeries if they can. They live with pain. When they get sick, they crowd emergency rooms where the care they get is often too little, and too late.

In a new survey by the American College of Emergency Physicians and the Robert Wood Johnson Foundation, two-thirds of ER doctors said the uninsured patients they see are sicker than those with insurance, and nearly all—94 percent—said it was harder to schedule needed followup care with uninsured patients.

People without insurance pay more for health care. Hospitals routinely charge uninsured patients up to four times as much as patients with insurance for the same services. Too often, people who are already battling illness find themselves having to fight off aggressive debt collectors, too.

And 18,000 Americans die prematurely every year because they do not have health insurance. Forty-nine people every day.

Our economy also suffers. The Institute of Medicine estimates that lack of health insurance costs America between $65 billion and $130 billion a year in lost productivity and other costs.

Democrats have been leading the fight for universal health coverage in America for decades. We want to work with our Republican colleagues to reduce the number of uninsured Americans and make health care more affordable and accessible.

But the few proposals offered so far by the President and congressional Republicans will not work. Independent studies of these proposals show that they would do little to address soaring health care costs and the growing insurance gap, and, in some cases, they would actually make matters worse.

There are better ideas. Democrats have proposed that, within 2 years, all Americans have access to affordable health care that is as good as the health care members of Congress have—at the same rates, or lower. We ask our Republican colleagues to work with us to make that a reality.

In addition, we should adequately fund the Children's Health Insurance Program. We should also adequately fund the VA and the Indian Health Service—we must keep our promises to America's veterans and honor our treaty obligations to American Indians.

We can reduce the cost of prescription drugs—one of the driving forces behind medical inflation—by letting Medicare negotiate the best prices for American seniors, and by allowing Americans to re-import safe prescription drugs from Canada and other industrialized nations.

I introduced a bill recently that could significantly reduce the number of uninsured Americans and help small business owners create new jobs at the same time. The Small Business Health Tax Credit—S. 2245—would provide small businesses with tax credits to cover up to 50 percent of the cost of their employees' health insurance. These health care tax credits would help businesses save money, which means they will have more money to invest in new equipment, hire new workers, and give their employees raises.

If our Republican colleagues have additional ideas that will actually reduce the cost of health care and increase the number of Americans with insurance, we welcome the chance to work with them on those ideas as well.

What we cannot do is to continue to ignore this urgent problem. Lowell and

Pauline Larson sold much of what they owned to pay their medical bills because they take their responsibilities seriously. It's time for this Senate to take seriously its responsibility—to find solutions to reduce the cost of health care and the number of Americans without health insurance.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

## ORDER OF PROCEDURE

Mr. REID. I ask unanimous consent that the time allotted under the previous unanimous consent agreement for the Democrats be divided 10 minutes to the Senator from Iowa, Mr. HARKIN, 5 minutes to the Senator from New York, Mr. SCHUMER. Under the previous unanimous consent agreement that had been entered into we have time set aside for Senator LEVIN of 10 minutes. Senator LEVIN will not come. I ask unanimous consent that Senator REED of Rhode Island be inserted in his place.

The PRESIDING OFFICER. Is there objection?

Mr. CORNYN. Reserving the right to object, I am sorry, I was otherwise distracted.

Mr. REID. The Senator does not need to worry. Everything is under control.

Mr. CORNYN. That is what I was afraid of. I want to make sure, are we pushing back morning business?

Mr. REID. No. Morning business is going to proceed, but because of leader time and the prayer and the pledge, morning business did not start until a few minutes later. So the Democrats will now have 15 minutes for morning business and following that we will go into the 2 hours of debate.

Mr. CORNYN. I thank the Senator very much.

Mr. REID. All I was doing is stating that Senator LEVIN will not be here. Senator JACK REED is going to take his place.

Mr. CORNYN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. HARKIN. I understand I have 10 minutes.

The PRESIDING OFFICER. That is correct.

## CLASSIFIED LEAK INVESTIGATION

Mr. HARKIN. Mr. President, today we observe a sad milestone in the scandal and tragedy that some have labeled ''leakgate.'' It has been exactly 1 year, July 14, since two senior White House officials leaked Valerie Plame's identity as a covert operative at the Central Intelligence Agency.

Last July 14, 2003, 8 days after Ms. Plame's husband published an op-ed in the New York Times which questioned information in the President's 2003 State of the Union message regarding a supposed effort by Iraq to purchase uranium from Africa, her identity was revealed in print by columnist Robert Novak. This illegal act should have outraged everyone at the White House. It should have moved President Bush immediately to demand the identity of the perpetrators.

Instead, in his only public statement about this act of betrayal, Mr. Bush smiled—yes, he smiled—and said:

> This is a town that likes to leak. I don't know if we are going to find out the senior administration official. Now, this is a large administration, and there's a lot of senior officials. I don't have any idea.

Again, he said it with kind of a smirk and a wry smile on his face.

I consider that statement to be disingenuous. The number of senior White House officials with the appropriate clearances and access to knowledge about Ms. Plame's identity can probably be counted on one hand, two at the most. If Mr. Bush was serious about identifying the perpetrators, those officials could have been summoned to the Oval Office and this matter would have been resolved in 24 hours.

Now, we are not talking about some little thing happening. This is an illegal action under the law.

Mr. Bush did not question his staff in the Oval Office. There was no outrage at the White House. There were no internal investigations. There was no angry President Bush demanding answers from his senior aides. There was only a cavalier dismissal, followed by a year of virtual silence.

Three decades ago, a previous occupant of the Oval Office, President Nixon, was recorded on audiotape saying to a senior White House official:

> I don't give an [expletive] what happens. I want you to stonewall it, let them plead the Fifth Amendment, cover up or anything else, if it'll save it, save this plan. That's the whole point. We're going to protect our people if we can.

That was Richard Nixon almost 30 years ago. This White House has now delayed any accountability for this damaging and illegal leak for a full year. White House officials who committed this act of treachery presumably are still exercising decision-making power.

Who is the White House protecting? Why? Do we now have a modern day Richard Nixon back in the White House?

And what was the cost of exposing Ms. Plame? Not only her job. As Vincent Cannistraro, former Chief of Operations and Analysis at the CIA Counterterrorism Center, told us:

> The consequences are much greater than Valerie Plame's job as a clandestine CIA employee. They include damage to the lives and livelihoods of many foreign nationals with whom she was connected, and it has destroyed a clandestine cover mechanism that may have been used to protect other CIA nonofficial cover officers.

Valerie Plame's cover was blown to discredit and retaliate against her husband Joseph Wilson. The recent report by the Senate Intelligence Committee provides some insight. It states that back in 2002 when the CIA was searching for someone with connections to Niger to find out about a possible purchase or attempt to purchase uranium by Iraq, she suggested that her husband, former Ambassador Wilson, go as a factfinder. Mr. WILSON was sent there. He reported the claim's lack of credibility to the CIA.

Later that year, the President was to give a speech in Cincinnati mentioning the claim. On October 6, CIA Director Tenet personally called Deputy National Security Adviser Stephen Hadley to outline the CIA's concerns that this claim was not real. And it was then deleted from the President's Cincinnati speech.

Between October 2002 and January 2003, concerns about the claim increased. In January, the State Department sent an e-mail to the CIA outlining ''the reasoning why the uranium purchase agreement is probably a hoax.''

Here is the troubling aspect: The same official, Stephen Hadley, who spoke with George Tenet and took the claim out of the October speech in Cincinnati, was also in charge of vetting the State of the Union Address. Amazing. If he knew it was a problem and took it out in October, why was it put in for the State of the Union message?

A lot of questions need to be answered. Mr. Bush seemingly does not want to know the identity of the leakers. The White House occupies a small area. The number of employees who are suspect in this matter is small. This should not be like trying to find nonexistent weapons of mass destruction in Iraq.

One year has passed. Perhaps the President and others have already told Special Prosecutor Fitzgerald who is responsible. Perhaps that has happened. If not, I believe it is clear that the President and the Vice President should be put under oath. They need to tell the special prosecutor and the American public who committed these acts. They should be put under oath, questioned, and filmed. Remember, this happened just a few years ago when another President, President Clinton, was put under oath and questioned by the special prosecutor, on film, which we witnessed right here on the Senate floor.

Also, by putting the President and the Vice President under oath and questioning them as they should be questioned, it sends another powerful message to the people of this country: No President, no Vice President, is above the law. President Clinton was not above the law. This President should not be above the law.

I call upon the special prosecutor: Put the President under oath. Put the Vice President under oath. Question them about their knowledge of this incident and let's get this matter cleared up. Find those responsible and prosecute them to the full extent of the law.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I want to follow up on what my colleague from Iowa has had to say. I thank him for his strength and leadership on this issue.

As was mentioned, it is a year ago that Robert Novak published a column outing a covert CIA agent. The next day I called for an investigation.

For about a month not much happened. Then, and I think the record should underscore this, George Tenet, head of the CIA, publicly and privately asked for an investigation, and one began.

I don't have any complaints with the investigation. I think both Mr. Comey and Prosecutor Fitzgerald have done a fine job. I have faith in what they are doing, at least from everything I have heard. But the bottom line is very simple. First, this was a dastardly crime. This is a crime of a serious nature committed by someone in the White House. We know that much. Unfortunately, the attitude of the White House has not been what it should be. There ought to be an attitude there that says this was a terrible crime. To reveal the name of an agent jeopardizes that agent's life and the lives of many others with whom they came in contact. There ought to be every effort to turn over every stone to find out who did this.

There is a lot of speculation it was done for vengeance, to get at Ambassador Wilson. It doesn't matter what the reason is, the bottom line is there is a rule of law in America, and this crime is a lot worse than a lot of crimes that we get prosecutions for. The bottom line is simple. I believe if the President wanted it to come out, and said, It doesn't matter where the chips fall, we are going to find out who did it and bring them to justice, it would have come out already as to who did it.

Instead, we first had stonewalling—no investigation. Now we have an investigation, but everyone is hiding behind the shield laws and other types of things that say this gets in the way of the sanctity of freedom of the press.

That is not true. If the President insisted that every person in the White House sign a statement—not just asked them to do it, insisted—under oath, that they did or did not, and then released the journalists they might have talked to, we would know who did it.

Ultimately, as Harry Truman always reminded us, the buck stops with the President. This is lawbreaking. This is not just political intrigue, this is not just payback, this is lawbreaking of a serious crime. Right now, as we speak, we are trying to build up human intelligence, which fell too far in the CIA. Right now, as we speak, there are American men and women risking their lives in these undercover activities. They know that somebody who did the same has been put at risk, and there is no strong rush to find out who did it and punish them.

That hurts our intelligence gathering. It hurts our soldiers. It hurts the rule of law. On this first anniversary we make a plea to the President: It is not too late. Make every person who worked in the White House during the time of the leak sign a statement under oath either that they did or did not talk to them. If they will not sign it, they should not be in the White House anymore. This is too serious to treat as everyday politics.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have spoken with the manager of the bill, the Senator from Texas. He has agreed to allow Senator KENNEDY to speak for 5 minutes, and Senator REED to go next.

The PRESIDING OFFICER. The Senator from Massachusetts.

## FEDERAL MARRIAGE ACT

Mr. KENNEDY. Mr. President, it speaks volumes that the Senate Republican leadership has taken this disgraceful detour into right-wing campaign politics when so much genuine Senate business is still unfinished, and so little time is left to get it done.

We can't pass a budget. We are far behind in meeting our appropriations responsibilities. So far, in fact, we have passed only 1 of the 13 appropriations bills for the next fiscal year that begins on October 1. We may not see any of these bills acted on, on or before the August recess. Even in the wake of the al-Qaida terrorist threat announced last week by Secretary Ridge, the Senate leadership refuses to proceed with debate and votes on the Homeland Security appropriations bills.

We know many higher priorities should be worked on. Since President Bush took office in 2001, health insurance premiums have soared 43 percent. Tuition at public colleges has risen 28 percent. Drug costs have shot up 52 percent. Corporate profits have risen by over 50 percent. Yet private sector wages are down six-tenths of 1 percent since President Bush took office, and there are 3 million more Americans in poverty.

The Senate Republican leadership has consistently failed to address these and many other urgent priorities. It has taken no action to fix America's broken health care system. It has blocked passage of the Patients' Bill of Rights. It has refused to allow a vote on raising the minimum wage. It has still not scheduled a vote on renewing the existing ban on assault weapons, which will expire September 13.

Rather than deal with these urgent priorities, the leadership is engaging in the politics of mass distraction by bringing up a discriminatory marriage amendment to the U.S. Constitution that a majority of Americans do not support.

Conservative activist Paul Weyrich explained the partisan GOP strategy in a recent e-mail newspaper. President Bush has ''bet the farm on Iraq'' he wrote, and the best solution to his declining poll numbers is to ''change the subject'' to the Federal marriage constitutional amendment. Weyrich acknowledged that doing so might cost the President votes from gay and lesbian Republicans, but he is not troubled about it. ''Good riddance,'' he wrote.

We all know what this issue is about. It is not about how to protect the sanctity of marriage or how to deal with activist judges. It is about politics. I might say, of the activist judges, of the seven judges who drew the decision in Massachusetts, six of them were appointed by Republicans.

This is about politics, an attempt to drive a wedge between one group of citizens and the rest of the country, solely for partisan advantage. We have rejected that tactic before, and I am hopeful we will do so again.

I am also hopeful that many of our Republican colleagues, those with whom we have worked over the years in a bipartisan effort to expand and defend the civil rights of gay and straight Americans alike, will join us in rejecting this divisive effort. There is absolutely no need to amend the Constitution on this issue. As news reports from across the country make clear, Massachusetts and other States are already dealing with the issue and doing it effectively and doing it according to the wishes of the citizens of their State. No State has been bound or will be bound by the rulings and laws on same-sex marriages in any other State.

The Federal statute enacted in 1996, the Defense of Marriage Act, makes the possibility of nationwide enforceability even more remote. Not a single State or Federal court has called the constitutionality of that act into question.

Furthermore, not a single church, mosque, or synagogue has been required or ever will be required to recognize same-sex marriages. As the First Amendment makes clear, no court, no State, no Congress can tell any church or any religious group how to conduct its own affairs. The true threat to religious freedom is posed by the Federal marriage amendment itself, which would tell churches they cannot consecrate a same-sex marriage, even though some churches are now doing so.

Given these indisputable facts, the proponents of the Federal marriage amendment have built their case upon a tower of speculation and conjecture—an attempt to conjure up a national crisis where none exists.

This is a wholly insufficient basis for even considering a proposed constitutional amendment on the Senate floor, much less voting for it. If it is not necessary to amend the Constitution, it is necessary not to amend it.

I urge my colleagues to show respect for our country's Constitution and its principles and traditions, and not play partisan campaign politics with the foundation of our democracy. I urge them to reject this discriminatory and unnecessary proposal.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I don't believe the Chair has announced the resolution is before the Senate. Is that right?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask the Chair to do that and I ask unanimous consent that Senator KENNEDY's time be counted against the unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FEDERAL MARRIAGE AMENDMENT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S.J. Res. 40, which the clerk will report.

The assistant legislative clerk read as follows:

A motion to proceed to the consideration of Senate Joint Resolution 40, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

The PRESIDING OFFICER. Under the previous order, the time until 11:45 shall be equally divided between the chairman and ranking member or their designees.

The Senator from Rhode Island.

Mr. REED. Mr. President, I rise today in opposition to the amendment that is before us. First, Congress has already addressed this issue in a statute that has yet to be effectively legally challenged. Second, amending the Constitution should be the last resort and not the first response when it comes to an issue of this type. Third, issues involving family law matters are and have been historically the purview of State legislatures and State courts. Finally, while there is great interest on the part of some in this Constitutional amendment, our Nation faces the far more pressing threat of terrorists committed to attacking us here on U.S. soil. There is so much more we can and should do with respect to that looming threat.

Several years ago in response to developments in Hawaii and elsewhere, Congress, along with then-President Clinton's support, enacted the Defense of Marriage Act, known as DOMA. DOMA put into Federal law a clear and precise definition of marriage as follows:

. . . the word ''marriage'' means only a legal union between one man and one woman as husband and wife, and the word ''spouse'' refers only to a person of the opposite sex, who is a husband or a wife.

In the face of this clear language in the statute, it is amazing to me we would disregard the wisdom of our Founding Fathers and attempt to enshrine in the Constitution this principle without testing the constitutionality of this statute. Since it was first written and with the addition of the Bill of Rights in 1791, our Constitution has only been amended 16 times. The vast majority of these amendments dealt with the separation of powers and structure of our Government, the right to vote, power to tax, and other issues that, frankly, are only issues that can be decided through Constitutional amendment. The amendment that is before us today has not yet risen to this level of interest and concern.

First, as I indicated, Congress has already addressed the issue of what marriage is, and that law to date has not been challenged in a meaningful way. So there is no definitive finding of the constitutionality of DOMA. Indeed, typically the first step when one seeks to pursue a constitutional remedy is to determine whether the statutes are adequate. That has not been done.

Second, only one State in our Nation has recognized same-sex marriage, and that decision has yet to impact other States.

I would suggest to my colleagues that now is not the time to play politics in an election year with the Constitution of the United States.

I believe it is also important to note that the Founding Fathers in their wisdom established a Federal system of Government that intentionally left many critical issues to the control of State legislatures and State courts. This system has served our Nation extremely well, and I fear this amendment, if adopted, would lead to a succession of proposals to federalize family law and to federalize other issues that have been the purview of States since the beginning of our country.

Also, it strikes me as a misplaced priority when it comes to all the other issues that face us today—issues of funding homeland security, issues pertaining to health care, issues that are affecting the lives of every family in the country—to be here today and debating a proposal that does not have the majority support of the American public. In an ordinary time, debating any issue might be justified, but this is not an ordinary time.

As we were reminded last week by Governor Ridge and Mr. Mueller of the FBI, there are those who are plotting today to attack us in our homeland, and yet here we are talking about the issue of a relationship between two consenting adults.

We have 30 days left on the majority leader's schedule, and apparently we are going to spend our time on these types of divisive issues. That is not how I think we should properly spend our time. I think we should commit ourselves to dealing with the issues that pertain to every American family—issues of health care, issues of security, both economic and international.

Today we are spending time on an amendment which will not pass, which is not supported by the majority of Americans, and which defers us and deflects us from concentrating on the issues I think can help Americans.

Finally, I know many of my constituents are gays and lesbians in long-term relationships. While I myself believe civil unions are perhaps the best place to begin to publicly acknowledge these relationships, I want to recognize that the impetus behind the push for gay marriage comes from a desire for security and serious, committed relationships by many adult Americans.

In closing, let us heed the wisdom of our Founding Fathers. The States are simply the correct place for the regulation of marriage, and this kind of election-year politicking, which suggests an intolerance toward many of our constituents and neighbors, is plain wrong.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, when I came to the Senate I learned a new aphorism, referring to the debates and sometimes repetitive arguments you tend to hear by Members of Congress. Someone told me: ''Well, everything has been said; it is just not that everyone has had an opportunity to say it yet.''

Sometimes I wonder if that reflects the fact when we are debating important issues like this, people aren't listening or maybe they made up their minds and they are not open to the facts or persuasion or perhaps some preconceived notion they have about the motivation for legislation is flat wrong, but they have already locked in, they have already gone public, they have taken a position and then it becomes two contending adversaries across some demilitarized zone and we try to fight it out the best we can and then count the votes.

But I think two things are most important about this debate. Despite some of the repetition of erroneous arguments, we have had an important debate. I think two things will come out of this that have been very positive, regardless of what happens in the vote today.

First, we have had a debate on the importance of traditional marriage, the importance of the American family and steps we should be taking in order to preserve the traditional marriage and American family and to work in the best interests of children. That is a debate that has been long overdue. I am told it has been perhaps at least 8 years, since the passage of the Defense of Marriage Act, since this body has even talked about the most basic building block in our society. I think that has been very positive.

I also think it has been positive that we have been able to direct the American people's attention to the erosion of our most fundamental institutions by judges who seek to enforce their personal political agendas under the guise of interpreting the Constitution.

Now I come to the Senate and hear some of my colleagues, including the Senator from Massachusetts, say this is all part of a right-wing conspiracy, or words to that effect. Surely, when the Defense of Marriage Act passed in 1996 by a vote of 85 Senators, an overwhelming bipartisan consensus which defined marriage as a union of a man and a woman, that was not the product of a vast right-wing conspiracy. Indeed, that was the Senate and Congress functioning at its best, coming together to protect the fundamental institution, one we have fought hard and should continue to fight hard to preserve and protect against all challenges.

We have heard and I have read in the press that this side of the aisle has been castigated for not accepting the Democratic leader's offer to go to an up-or-down vote on this amendment. The problem is, of course, that they only tell half of the offer. The other part of the offer was banning consideration of any further amendments that might be offered in the Senate—in other words, constraining the debate, stifling the debate, and limiting the right of any Senator on any piece of legislation, whether it is a constitutional amendment or an ordinary bill, to offer alternatives for the body to consider as a means of advancing the debate.

My understanding is the majority leader countered by saying, okay, we will go to an up-or-down vote, but we are not going to limit our right to offer amendments. The amendment most talked about is the so-called Smith amendment, which is, lo and behold, the first sentence of the amendment offered by Senator ALLARD hardly a surprise to anybody—which merely defines marriage as a union between one man and one woman. Our colleagues on the other side of the aisle were apparently afraid to allow the Senate to consider alternatives as a way of advancing the debate because they were afraid an alternative, perhaps along the lines of Senator SMITH's amendment, the one-sentence amendment, would garner more votes. I am advised it would garner perhaps as many as ten new votes.

Mr. CARPER. Will the Senator yield?

Mr. CORNYN. I will gladly yield after I complete my remarks.

It is a bogus offer. It is a bogus argument that somehow by refusing their attempt to stifle the debate and stifle the amendment process that this has somehow become nothing but bare partisan politics.

There are those who would raise their voices, those who would call Members names, Members who believe it is important to defend the traditional institution of marriage, in hopes we would lose the courage of our convictions. In hopes that we would simply be silent while we see the ongoing march of litigation as part of a national strategy to undermine the traditional institution of marriage that we know is the most important stabilizing influence in our society and one that functions in the best interests of our children. But we are not going to lose the courage of our convictions. We are not doing to sit on the sidelines. We are not going to be quiet. We are not going to give up. In fact, regardless of how this vote turns out at noon today, I know of no important piece of legislation considered by Congress that has been successful the first time it has been introduced into the Senate.

What I have learned is probably the most important characteristic of a Member of the Senate is someone who is willing to persevere over weeks and months and even years until ultimately they are able to see the fruit of their labor and the legislation they have sponsored be accepted by the Senate. It is part of a building process, it is part of an awareness process that is very important.

Part of the awareness process is also to knock down some of the unfounded statements that are made during the course of the debate. It was, I believe, the Senator from Massachusetts who said that no court has called the Defense of Marriage Act into question. Perhaps he was not able to listen yesterday when I read a paragraph out of the Massachusetts Supreme Court decision in Goodridge, relying on the case of Lawrence v. Texas, that plainly calls the constitutionality of the Federal Defense of Marriage Act into question. As a matter of fact, you cannot really believe, as the court did, that the marriage laws of Massachusetts were unconstitutional and believe that the Defense of Marriage Act is constitutional as well.

To be fair, the unconstitutionality of the Defense of Marriage Act is an argument the Senator from Massachusetts made back in 1996 when he voted against the Defense of Marriage Act, as did the other Senator from Massachusetts, Senator KERRY, who voted against the Defense of Marriage Act then and who stated that if passed, it would be unconstitutional. This has been a consistent theme, although they have some of their facts wrong. I hope that helps clarify.

The question before the Senate today is simple: Do you believe traditional marriage is important enough that it deserves full legal protection? As I said, an overwhelming bipartisan consensus in 1996 voted that it did by passing that statute. President Clinton said as much by signing that legislation into law in 1996.

This debate is important. It is long overdue because we have, in essence, a stealth operation going on today. It is an effort where a handful of courts around the country, as well as those who have engaged in a nationwide litigation strategy, are basically operating off the radar screen of most Americans. The only time the American people know very much about it is when a blockbuster decision is handed down, such as the Massachusetts Supreme Court in May of this year, or when they happen to see local officials engaged in civil disobedience, for example, in San Francisco, issuing same-sex marriage licenses and same-sex marriages in that location.

This is not, despite the wishes of some of the people who are opposed to this amendment, something that can be solved at the State level. I believe in the principle of federalism. I believe people at the local level, closest to the problem, are best prepared and are in the best position to try to address that problem. But we have seen how, with one State recognizing same-sex marriage, people have moved now, we know, to 46 different States and how there are lawsuits pending in at least 10 of those States—and no one knows how many there will be in the future—seeking to compel those States, in violation of their current State law, to recognize those same-sex marriages.

Some people have said, don't worry. The Senator from New York, Senator CLINTON said, don't worry, we do not have to amend right now, we can wait until after the Federal Defense of Marriage Act is held unconstitutional. In fact, she said no one had challenged it, and I have attempted to clarify that by my earlier statements.

In the interest of completeness, let me ask unanimous consent to have printed in the RECORD the cover sheet from a lengthy petition in both cases, one filed in the Western District of Washington, in re Lee Kandu and Ann C. Kandu, and another complaint, Sullivan v. Bush, filed in Federal court, the Southern District of Florida, Miami Division, seeking to hold the Federal Defense of Marriage Act unconstitutional as a matter of Federal law.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNITED STATES BANKRUPTCY COURT FOR THE WESTERN DISTRICT OF WASHINGTON

In re Lee Kandu and Ann C. Kandu, Debtors; No. 03–51312; reply of petitioner Kandu to show cause order.

Petitioner Lee Kandu submits this reply to the United States Trustee's Response to the order to show cause why the joint petition should not be dismissed. As explained below, the government has failed to respond directly to the legal issues presented by this case—issues never before considered by this or (to the best of petitioner's knowledge) any other court as to the proper construction and constitutionality of the federal Defense of Marriage Act (''DOMA''). To the extent that the government does touch on the issues presented by this case, the government's arguments are based on outdated case law and lack merit.

ARGUMENT

*I. Applying DOMA to Section 302 of the Bankruptcy Code Would Violate the Tenth Amendment*

It is well settled that the Tenth Amendment prohibits Congress from usurping the powers not delegated to it by the Constitution. It is also well settled that ''the regulation of domestic relations has been left with the States and not given to the national authority.'' Williams v. North . . .

UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION

Civil Action No. 04–21118: F.D.R. ''Fluffy'' Sullivan and Pedro ''Rock'' Barrios; Cynthia Pasco and Erika Van der Dijas; Michael Solis and Jesus M. Carabeo; and Jason Hay-Southwell and William Hay-Southwell, Plaintiffs, v. John Ellis Bush, in his official capacity as Governor of the State of Florida, and Charles J. Crist, Jr., in his official capacity as Attorney General of the State of Florida; and Harvey Ruvin, in his official capacity as Clerk of the Circuit and County Courts, Miami-Dade County, Florida; and John Ashcroft, in his official capacity as Attorney General of the United States, Defendants.

COMPLAINT FOR DECLARATORY JUDGMENT

CLAIM OF UNCONSTITUTIONALITY

1. This Court has jurisdiction pursuant to 28 U.S. Code 1331. This is a civil action arising under the Constitution and laws of the United States presenting a substantial Federal question.

2. Venue is properly in the Southern District of Florida, Miami Division, pursuant to 23 United States Code 1391. All of the Defendants reside in Florida and all have offices for the conduct of official business in Miami-Dade County, Florida: also a substantial part of . . .

Mr. CORNYN. Some have said there are more important issues to debate. Certainly, the Senate has debated and I hope and trust we have passed legislation that has done a lot of good on behalf of the people who sent us here. If we haven't, we have not been doing our job. I believe we have a record we can be proud of when it comes to defending America and the war on terrorism, when it comes to rejuvenating our economy to see it come roaring back the way it has, indeed, providing a prescription drug benefit to senior citizens.

We have done a lot of which we can be very proud. And for someone to stand up and say that preservation of traditional marriage is not important enough for us to talk about, to me, is breathtaking in its audacity and its sense of obliviousness to what the concerns are of moms and dads and families all across this country.

We know for years, for a variety of reasons, the American family has been increasingly marginalized. We know we have a crisis in this country of too many children being born outside of wedlock, too many marriages ending in divorce, and too many children being raised in less than optimal circumstances, putting them at risk for a whole host of social ills for which ultimately the American taxpayer has to pick up the tab. And I have not even mentioned the human tragedy involved, as some child fails to live up to their God-given potential.

I do not believe that we can remain neutral or to remain merely spectators in this further marginalization of the American family. We cannot allow for a process that puts more and more children at risk through a radical social experiment. And if we want to look for the only evidence that we know is available, we can look to Scandinavia, where less people get married, more children are born out of wedlock, and more children become, thereby, the responsibility of the State.

It is not good for them, it is not good for us, and we should not, without letting the American people have a voice in the process, merely sit back while judges radically redefine our most basic societal institution.

Now, let me click through a number of other arguments that have been made.

I know Senator DURBIN has said we should not talk about constitutional amendments during an election year. My question to him is: Isn't Congress still in session? Aren't the American taxpayers still paying us to do our job? As a matter of fact, six times Congress has successfully proposed amendments in an election year.

Some have claimed that the text that is before us—Senator ALLARD's amendment—prevents States from enacting civil unions if they should wish to do so through their elected representatives. Yet the Democrats' own legal expert, Professor Cass Sunstein, answered this very question: Of course not. This amendment does not prevent the States from enacting civil unions should they decide to do so.

Some have even gone so far as to claim that the Allard text would regulate private corporations, churches, and other private organizations. As the Presiding Officer well knows, and as virtually everybody in this body should know, the Constitution regulates State actors, not private actors. These arguments do not hold water. But they do not have to work for our opponents on this issue to say them because that is not the point. The point is, if you cannot convince them, confuse them. Their aim is to distract the American people away from the real question, which is, as I said at the outset: Do you believe that traditional marriage is important enough that it deserves full protection under law?

I would ask the opponents of this amendment, if you believe in traditional marriage—as some of you but certainly not all of you have said you do—but you do not support this amendment, what is your plan? What do you think the American people should do when courts run red lights and act in excess of their authority by legislating from the bench, redefining our most basic institutions? What are you going to do to stand up on behalf of the American family to prevent the increasing marginalization of the American family?

But I am confused by the arguments that are made by some on the other side of this issue. When some of their very own leaders say the Defense of Marriage Act is unconstitutional—such as Senator KENNEDY, Senator KERRY—when your very own leaders say, as the senior Senator from Massachusetts did yesterday, that traditional marriage is a ''stain on our laws''—repeating the language of the Massachusetts Supreme Court in saying that traditional marriage is a ''stain that must be eradicated'' because it, in essence, represented discrimination—what do the opponents of this amendment think we should do? Do you want the courts to strike down traditional marriage? What you are saying is that you do not want the American people to know about it, much less have a voice in correcting this radical social experiment.

Of course, everyone has a right to file lawsuits. But the American people have rights, too, rights preserved by Article V of the U.S. Constitution, which provides a process of amendment, particularly when courts engage in a radical redefinition of our most basic institution under the guise of interpreting the Constitution. Indeed, the only way the American people have of responding is through a constitutional amendment. So we have no choice but to offer this amendment by way of response.

I think no one should be fooled into thinking that on this side of the aisle we are afraid of a full and fair debate and a vote on the various proposals that may come to the floor. But, indeed, under the offer made by the Democratic leader last Friday, it would have cut off any amendments, would have stifled a full debate, which I think has been on the whole very positive.

I appreciate my colleague for letting me finish my prepared remarks. I do not know if he still has a question, but I would be glad to respond if he does.

Mr. CARPER. I do. I thank my colleague for yielding. There is a question I want to ask. But let my just say, first of all, I think you know how much I respect you and the high regard I have for you and how much I enjoy working with you. We agree on a lot of things. And there are one or two things we do not agree on, and that is, I think, to be expected.

The issue that you raised early in your remarks is one I want to come back to; and that is, the question of whether we should in some way have an up-or-down vote on the amendment that is before us, or if there should be opportunities for other colleagues, Republicans and Democrats, to offer their own amendments to this underlying amendment.

I think the concern for our side is that we are mindful of the possibility of this not being just a debate, an opportunity to address whether there should be a constitutional amendment as marriage being between a man and a woman, but an opportunity to consider other issues of a constitutional nature.

There are people on our side interested in amendments that deal with campaign finance, in restricting money spent on campaigns. That is one example.

As a Member of the House, when I served with Senator SANTORUM over there, we were great proponents of something called a balanced budget amendment to the Constitution, not one that mandated a balanced budget, but one that said: Shouldn't the President be required to propose a balanced

budget? And shouldn't we make it a little more difficult for the Congress to unbalance that budget?

There are a number of constitutional amendments that are floating out there on your side and on our side. Here is my question.

Mr. CORNYN. Mr. President, I would be glad to respond to my colleague's question, but I first ask unanimous consent that the time engaged in question and answer be charged to the other side, in fairness.

The PRESIDING OFFICER. Is there objection?

Mr. CARPER. I will not object.

Mr. CORNYN. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CARPER. I just ask that the response come out of your time.

Mr. CORNYN. I would be glad to respond to that because I think that is an important issue. No one has suggested we should not make this discussion about preserving traditional marriage. I would say there was no attempt to try to limit any debate, any amendments that might be offered—for example, the single-sentence amendment, which is the first sentence of Senator ALLARD's amendment—to amendments that are germane to the preservation of traditional marriage.

So I must say that while I respect my colleague—and he knows that, and, as he said, there are many things we agree on—I simply disagree that our refusal to take the offer that would allow no amendments, whether or not they are germane to the issue of traditional marriage, in no way opens this matter up to non-germane or extraneous amendments.

I would be pleased—at least speaking personally; of course, any Senator could lodge an objection to the unanimous consent request—for us to stay on the subject because I think this has been a very helpful debate.

I would also ask unanimous consent that a letter to Ms. Margaret A. Gallagher dated July 11, 2004, and a letter from the Liberty Counsel dated July 10, 2004, be printed into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE BECKET FUND
FOR RELIGIOUS LIBERTY,
*Washington, DC, July 11, 2004.*

Ms. MARGARET A. GALLAGHER,
*President, Institute for Marriage and Public Policy, Washington, DC.*

DEAR MS. GALLAGHER: Your Institute and others have asked us to examine whether the proposed Federal Marriage Amendment (''FMA'') would violate the principle of religious liberty. In particular, you have first asked whether the FMA would reach private action in light of the fact that the FMA contains no express provision limiting its reach to state action only. Second, you have asked us to consider what the practical consequences for religious liberty would be should the FMA become law. That is, you have asked us whether it will trigger a ''witch hunt'' against religious organizations and individuals that choose to conduct or participate in religious ceremonies which they refer to as weddings.

You have provided us with an opinion letter by David Remes (the ''Remes Letter'') which answers both questions in the affirmative. Our strong belief is that the Remes Letter is mistaken on both counts. The FMA would not reach private action, and the parade of horribles it posits is unlikely in the extreme.[1]

At the outset we wish to emphasize that the Becket Fund is a nonpartisan, interfaith, public-interest law firm that protects the free expression of all religious traditions. We have represented religious congregations that have come down on both sides of the debate over the FMA. We have for example represented Unitarians, who do not support the FMA, and more conservative congregations who do. We have represented a wide assortment of faiths, including a variety of Jewish and Christian congregations, Buddhists, Muslims, Native Americans, Sikhs, Hindus, and Zoroastrians, whose views on the FMA are unknown to us. We have also represented religious congregations who take opposing positions on the moral issue of homosexual behavior itself. We have on the one hand represented congregations that condemn not only gay marriage but also gay sex, and on the other, at least one congregation (the Come As You Are Fellowship in Reidsville, Georgia) that openly welcomes gays. Had we concluded that the FMA would violate the principle of religious liberty we would have been at the forefront of the effort against it. We have, however, concluded otherwise.

THE FEDERAL MARRIAGE AMENDMENT WILL NOT REACH PRIVATE ACTION

The Remes Letter argues that the FMA ''by its own terms'' reaches private action. The Remes Letter concludes this simply from the fact that the FMA does not state otherwise. But more than 100 years ago the Supreme Court settled the point that constitutional provisions that do not facially restrict themselves to state action cannot be assumed to reach private action. In *United States* v. *Cruikshank*, 92 U.S. 542 (1875), the United States attempted to prosecute one group of private citizens for ''banding and conspiring'' together to deprive another group of citizens of, among other things, the ''right to keep and bear arms for a lawful purpose.'' Id., 92 U.S. at 545. The government's indictment was based on the argument made by the Remes Letter—because the Second Amendment did not limit itself facially to state action, but simply stated that ''[a] well regulated Militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed[,]'' private actors could be indicted for attempting to deprive others of those rights. U.S. CONST. amend. II; *Cruikshank* at 548. The Supreme Court rejected that reasoning out of hand: ''The second amendment declares that it shall not be infringed; but this, as has been seen, means no more than that it shall not be infringed by Congress. This is one of the amendments that has no other effect than to restrict the powers of the national government, leaving the people to look [to the state police power] for their protection against any violation by their fellow-citizens of the rights it recognizes.''—*United States* v. *Cruikshank*, 92 U.S. at 553. Had the Court ruled otherwise and applied to the Second Amendment the strained interpretation that the Remes Letter applies to the FMA, much mischief would have resulted. Churches, synagogues, and mosques for example, could not prevent persons from wearing firearms on the premises without thereby violating the Constitution.

The Remes Letter theory, if true, would lead to equally strange interpretations of other Amendments. The Third Amendment, which prohibits the quartering of troops in private homes during time of peace without the consent of the owner—but which does not explicitly limit its scope to state action—would make it unconstitutional for a tenant to sublease his apartment to a military officer whom his landlord found objectionable. Every petty theft would constitute a violation of the Fourth Amendment because that Amendment does not explicitly limit its condemnation of unreasonable seizures to state actors. Excessive spanking would arguably violate not only child abuse laws but the constitution itself, because it might be construed to be cruel and unusual punishment under the Eighth Amendment, which also does not expressly limit its scope to state action. None of these examples are the law, precisely because it has long been settled that constitutional provisions that do not expressly limit themselves to state action nevertheless do not ordinarily reach private action.[2]

The sole exception—and curiously the only example the Remes Letter cites—is the Thirteenth Amendment, which bans slavery. To remove that evil root and branch, it was necessary to take the extraordinary step of a constitutional provision that reached both public and private action. See, e.g., *United States* v. *Nelson*, 277 F.3d 164, 175 (2d. Cir. 2002) (history shows that unlike other amendments, the Thirteenth Amendment ''eliminates slavery and involuntary servitude *generally*, and without any reference to the source of the imposition of slavery or servitude'' and therefore ''reaches purely private conduct.'' (emphasis added)).[3]

By contrast, to achieve the FMA's objective, it is not necessary to reach private action. The FMA is occasioned by the interplay among state court decisions requiring that civil marriage be available to same-sex couples and the Full Faith and Credit Clause of the federal constitution. That Clause requires in general that civil marriages performed in one state be recognized in all other states. Thus, without the FMA, the argument goes, same-sex couples civilly married in Massachusetts must be considered civilly married in Alaska as well. However, the Full Faith and Credit Clause simply does not apply to purely religious ceremonies. Unlike uprooting slavery, therefore, preventing civil same-sex marriage from spreading via the Full Faith and Credit Clause does not require reaching private action. The general rule of the Second, Third, Fourth, and Eighth Amendments therefore applies, and not the exception of the Thirteenth.

Put differently, the historical context of the FMA informs its construction, just as the historical context of the adoption of the Bill of Rights informs construction of the Second, Third, Fourth, and Eighth Amendments, and the Civil War and Reconstruction provide the historical context that informs construction of the Thirteenth Amendment. Indeed, the FMA refers in its second sentence to state and federal constitutions—an unmistakable allusion to the actions of the Massachusetts Supreme Judicial Court in *Goodridge* v. *Department of Public Health*, 798 N.E.2d 941 (Mass. 2003) and other courts which have engendered the confusion to which the FMA is addressed.

In sum, it strikes us as past fanciful that courts construing the FMA would abandon the general rule adhered to in the Second, Third, Fourth and Eighth Amendments, and grasp at the exception of the Thirteenth. The FMA thus causes us no anxiety for the religious liberty of those of our clients who might wish to conduct ceremonies for gay couples.

THE FMA WILL PROTECT RELIGIOUS LIBERTY MORE THAN IT WILL THREATEN IT

We next examine the Remes Letter's suggestion that should the FMA become law, it

would occasion a witch hunt against those congregations and individuals who might seek to hold or participate in religious ceremonies for gay couples. The short answer to this fear is that the FMA does nothing but restore the status quo that has until very recently obtained in all 50 states since the Founding. We are aware of no such witch hunt ever being conducted against Unitarians or other groups who support same-sex marriage, whose tax exemptions seem to us as secure today as they ever have been. In those instances (overlooked by the Remes Letter) where same-sex marriage ceremonies have become the subject of litigation, the prosecutors have been clear that the crucial distinction lies between a purely religious ceremony, which the law will not disturb, and those ceremonies that purport to invoke state law and confer state benefits (''By the authority vested in me . . . .''), which would be illegal. See Thomas Crampton, Two Ministers are Charged in Gay Nuptials, N.Y. Times, March 16, 2004, at B1 (charges based on fact that ministers ''have publicly proclaimed their intent to perform civil marriages under the authority vested in them by New York state law, rather than performing purely religious ceremonies.'')[4] That seems to us to be the appropriate line to draw.

By contrast, in the short time since the Massachusetts Supreme Judicial Court handed down *Goodridge*, ordering gay marriage in the Commonwealth, a large number of serious questions have emerged about the rights of religious organizations who are conscientious objectors to that ruling. For example, Catholic colleges and universities there have started examining whether the schools must now provide married student housing to legally married gay couples.[5] Similarly, religious employers that provide health and retirement benefits to the spouses of married employees may risk liability for withholding those benefits from same-sex spouses.

On top of these liability risks, resisting churches are more likely to face selective exclusion from public facilities, public funding streams, and other government benefits. The Boy Scouts, whose right to exclude openly gay scouts from leadership was confirmed in *Boy Scouts of America* v. *Dale*, 530 U.S. 640 (2000), have been the target of state and local governments who have sought to exclude the Scouts from public benefits they have long enjoyed. Throughout Connecticut, for example, the Boy Scouts were denied participation in the state's payroll deduction charitable giving program. See *Boy Scouts* v. *Wyman*, 335 F.3d 80 (2d Cir. 2003). Similarly, the New York City Council recently passed a law to exclude any contractor from doing more than $100,000 worth of business with the City, if the contractor refuses to extend health benefits to same-sex domestic partners. As a result of their religious convictions, groups like the Salvation Army—which has provided the City with millions of dollars in contract services for the needy—will be excluded from participation in government contracts. Such sanctions can only be expected to increase under a regime of same-sex marriage.

Moreover, the *Goodridge* decision is having an impact on individuals as well. One Massachusetts Justice of the Peace has already resigned, because she could not perform same-sex marriages in good conscience and Massachusetts refuses to provide an opt-out for conscientious objectors. Thus we are concerned that, whatever religious liberty problems there might be at the margins should the FMA become law, there will be far more problems if it does not.

CONCLUSION

For the reasons set forth above, it is our opinion that the FMA would not reach private action and would sufficiently protect religious liberty from unwarranted state intrusion.

Very truly yours,

KEVIN J. HASSON,
*Chairman*.

END NOTES

[1] The Remes Letter raises an assortment of other objections to the FMA that are beyond the scope of this letter.

[2] See, e.g., *Katz* v. *United States*, 389 U.S. 347, 350 n.5 (1967) (''The Third Amendment's prohibition against the unconsented peacetime quartering of soldiers protects another aspect of privacy from *governmental* intrusion.'' (emphasis added)); *Terry* v. *Ohio*, 392 U.S. 1, 9 (1968) (''wherever an individual may harbor a reasonable expectation of privacy, he is entitled to be free from unreasonable *governmental* intrusion'' (emphasis added)); *Ingraham* v. *Wright*, 430 U.S. 651, 664 (1977) (Eighth Amendment designed ''to limit the power of those entrusted with the criminal-law function of *government*'' (emphasis added)).

[3] The same was true of Prohibition, enacted by the Eighteenth Amendment, until it was repealed by the Twenty-first Amendment.

[4] The case the Remes Letter does cite is idiosyncratic. *Shahar* v. *Bowers*, 114 F.3d 1097 (11th Cir. 1997) involved a lawyer recruited to join the office of Georgia Attorney General Michael J. Bowers (of *Bowers* v. *Hardwick* fame) who publicly championed her lesbian relationship at a time that sodomy was still illegal in Georgia. In its essence this was not a case about religious ceremony, so much as it was a case about demonstrated poor judgment. Id. at 1106, 1110. The outcome in *Shahar* would in any event have not been affected by the FMA becoming law.

[5] Rhonda Stewart, ''Catholic Schools Studying Gay Unions,'' The Boston Globe (May 16, 2004).

LIBERTY COUNSEL,
*Orlando, FL, July 10, 2004.*

THE FEDERAL MARRIAGE AMENDMENT PRESERVES MARRIAGE AS THE UNION OF ONE MAN AND ONE WOMAN AND IS CONSISTENT WITH CONSTITUTIONAL JURISPRUDENCE AND FEDERALISM

We write this letter on behalf of a broad coalition of policy, religious and legal organizations and individuals to address several issues raised in a June 24, 2004 Covington & Burling memorandum (the ''Covington Memo''). When read in conjunction with a July 2, 2004 letter we prepared concerning the legal attacks being waged against marriage in the courtrooms, it becomes clear that the federal marriage amendment must pass.[1]

In an effort to provide a ready reference to the arguments raised in the Covington Memo, we will address each of their arguments in order. Contrary to the conclusions reached in the Covington Memo, the Federal Marriage Amendment (''FMA'') preserves marriage as the union of one man and one woman in a way that is consistent with constitutional jurisprudence and federalism. Accordingly, in the first section of this letter, we rebut the argument that ''The FMA is Ambiguous and Self-Contradictory.'' The second section exposes the intellectual dishonesty in the argument that ''The FMA Would Threaten Private Recognition of Marriage of Same-Sex Couples, Even By Religious Bodies.'' The third and fourth sections reveal the analytical error in the arguments that ''The FMA Displaces Democratic Decision-making'' and the ''The FMA is Inconsistent with Principles of Federalism.'' The fifth section addresses the argument that ''The FMA Would Constrain All Three Branches of Government.'' The final section discusses the current legal battles taking place, which undermines the argument, that ''The FMA Would Precipitate Continuing Struggle.''

I. THE TWO SENTENCES IN THE CURRENT FMA ARE CONSISTENT

The two sentences in the current FMA are consistent with each other. The current FMA provides that ''Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.''

The first sentence is a broad declaration that marriage throughout the country is limited to a union of one man and one woman. It also acts as a broad prohibition on conferring the legal status of marriage on any relationship other than that of a man and a woman. The second sentence reinforces the first sentence. It reinforces the first by expressly stating that neither the U.S. Constitution nor a state constitution may be construed to require same-sex marriage. The decision in Goodridge v. Department of Health, 440 Mass:. 309, 798 N.E.2d 941 (Mass. 2003), exemplifies the necessity of that portion of the second sentence.

In Goodridge, the Massachusetts Supreme Judicial Court (''SJC'') stated that ''[t]he everyday meaning of 'marriage' is 'the legal union of a man and woman as husband and wife,' and the plaintiffs do not argue that the term 'marriage' has ever had a different meaning under Massachusetts law.'' Id. at 319.[2] However, the SJC reformulated ''marriage'' to mean the ''union of two persons.'' Significantly, under the Massachusetts constitution, the SJC was without authority to redefine the indisputable understanding of marriage from the ''union of a man and a woman'' to the ''union of two persons.'' See Opinion of the Justices to the Senate, 324 Mass. 746, 85 N.E.2d 761 (1949) (unambiguous words in the constitution must be interpreted according to their meaning at the time they were added to the constitution). Nevertheless, four of the seven judges held that it would ''construe civil marriage to mean the voluntary union of two persons as spouses, to the exclusion of marriage.'' Goodridge, 440 Mass. at 343.[3]

The second sentence of FMA makes clear, for those looking for wiggle room in the language of the first sentence, that the FMA prohibits a repeat of the Goodridge decision. While the Covington Memo describes the first part of the second sentence as inconsistent with the first sentence, the level of judicial activism currently taking place across the country mandates a clear expression that marriage at the state and federal level is limited to the union of a man and a woman. The second sentence closes the door to any argument that the first sentence applies only to rights arising under the federal constitution, and therefore allows courts and legislatures to permit same-sex marriage under their state constitutions. This is particularly necessary given the fact that in the state marriage cases, those challenging the marriage laws as unconstitutional rely heavily on the argument that state constitutions grant broader individual rights than the federal constitution. See Covington Memo at 5 (''state courts are absolutely free to interpret state constitutional provisions to afford greater protections to individual rights than do similar provisions of the United states Constitution''). Whether or not a state constitution affords broader individual rights, the FMA reserves marriage in all fifty states as the union of one man and one woman.

The second sentence also prohibits a repeat the Baker v. State, 744 A.2d 864 (Vt. 1999) decision by the Vermont Supreme Court. In

that case, the court construed the state constitution to require the state to grant the same legal incidents of marriage to same-sex couples as are granted to marriages entered into by a man and a woman. After passage of the FMA, no court could render such a decision.[4] The two sentences of the FMA accomplish the same purpose—to reserve marriage for a union of a man and a woman. The two sentences are consistent.

II. THE FMA DOES NOT REACH PRIVATE CONDUCT NOR DOES IT THREATEN PRIVATE RECOGNITION OF SAME-SEX RELATIONSHIPS

The FMA does not reach private action nor does it prohibit private recognition of same-sex relationships. Marriage is a unique institution with a distinct definition and with distinct requirements for entry into the relationship. Two individuals may not simply declare themselves married and thus obtain the legal status of marriage. In all fifty states, a marriage may only be entered into with state sanction and approval.

A private religious group may conduct a religious ceremony to ''unite'' two persons of the same-sex, but such a union is not a marriage for legal purposes. Marriage is a public legal status. See Maynard v. Hill, 125 U.S. 190, 205 (1888) (marriage is the ''most important union in life, having more to do with morals and civilization of a people than any other institution'' and its status is conferred by the legislature); see also Loving v. Virginia, 388 U.S. 1, 7 (1967) (stating, ''[M]arriage is a social relation subject to the State's police power.'').

The Covington Memo argues that the FMA would be interpreted as the Thirteenth Amendment (regarding slavery) has been interpreted to prohibit private conduct. The Thirteenth Amendment is distinguishable from the FMA. Unlike marriage slavery does not require a state sanction—it is a purely private relationship. Because slavery may exist without state sanction or recognition, the Thirteenth Amendment applies to private conduct. Marriage, in contrast, cannot exist without government sanction. The FMA does not reach private conduct, nor would it regulate private ceremonies. A ceremony conducted by a private group is merely ceremonial or symbolic, not legal. The Second, Fourth, Fifth and Eighth Amendments are not limited by their text to state action, but it is clear they apply only to state action.

A thirteen-year-old child may not make a ''driver's license'' on a home computer and then protest when stopped by the police for driving without a license. Because the thirteen-year-old may not legally drive does not mean that private acts of playing driver off the public highways or creating a ''license'' for non-legal purposes are prohibited. However, if this person used the fake license to obtain access to a bar, then that action would come within the law. In the same way, it is impossible for a same-sex couple to conduct a private religious ceremony that legally results in marriage, and therefore, the FMA doesn't apply to the private action or ceremonies.

The FMA cannot ''punish'' religious organization:; that conduct ceremonies recognizing same-sex relationships. Nor would the FMA deny government funds to religious groups or deny charitable tax status to those organizations. The FMA also does not apply to private employment agreements providing health insurance to same-sex couples or other private contractual rights.[5] The FMA simply does not apply to private conduct.

III. THE FMA REPRESENTS THE VERY ESSENCE OF DEMOCRATIC DECISION-MAKING

The Covington Memo argues that the FMA would displace democratic decision-making. The argument seems to be that the FMA would usurp the power of the people to decide for themselves whether to allow same-sex marriage. In fact, the FMA, and the amendment process, represents the very essence of democratic decision-making. The people of the United States have the right to amend their Constitution. Once the FMA is passed through the Senate and the House, 38 states must ratify the amendment. It is the people, acting through their elected representatives, who have the right to amend the United States Constitution. This act represents the democratic process at its apex.

The Covington Memo also cites Justice Scalia's dissent in United States v. Virginia, 518 U.S. 515, 566 (1996) for the proposition that amending the Constitution prohibits the people from changing their perceptions and opinions. This argument demonstrates a lack of understanding of the democratic process. Moreover, the statement by Justice Scalia is taken out of context and twisted to mean something he did not say.[6] Justice Scalia dissented from the Supreme Court removing of the debate from the public over whether women should be admitted to military schools.

Instead of supporting the position of the opponents of the FMA, Justice Scalia's dissent supports the position of the FMA's supporters. The FMA puts the debate right where it should be—with the people and their elected representatives. The FMA represents the highest and best of the democratic decision-making process.[7]

IV. THE FMA IS CONSISTENT WITH THE PRINCIPLES OF FEDERALISM

Marriage has always been a national policy between one man and one woman. Utah's battle over polygamy is instructive. In 1862, the United States Congress passed the Morril Act, which prohibited polygamy in the territories, disincorporated the Mormon church, and restricted the church's ownership of property. See Late Corporation of the Church of Jesus Christ of Latter-Day Saints v. United States, 136 U.S. 1, 19 (1890). In Reynolds v. United States, 98 U.S. 145 (1878), the Supreme Court upheld the Morril Act, stating that polygamy has always been ''odious'' among the Northern and Western nations of Europe, and from ''the earliest history of England polygamy has been treated as an offense against society.'' Id. at 164. The court noted ''it is within the legitimate scope of the power of every civil government to determine whether polygamy or monogamy shall be the law of social life under its dominion.'' Id. at 166. To further the national policy of one man and one woman, Congress passed the Edmunds Act in 1882, and later passed the Edmunds-Tucker Bill in 1887. See Late Corporation of the Church, 136 U.S. at 19. See also Davis v. Beason, 133 U.S. 333 (1890).

As a condition to be admitted to the Union, Congress required the inclusion of anti-polygamy provisions in the constitutions of Arizona, New Mexico, Oklahoma, and Utah. See Arizona Enabling Act, 36 Stat. 569; New Mexico Enabling Act, 36 Stat. 558; Oklahoma Enabling Act, 34 Stat. 269; Utah Enabling Act, 28 Stat. 108. See also Murphy v. Ramsey, 114 U.S. 15 (1885). For Arizona, New Mexico and Utah, the Enabling Acts permitting these states to be admitted to the Union required that the anti-polygamy provisions be ''irrevocable,'' and that in order to change their laws to allow polygamy, each state would have to persuade the entire country to change the marriage laws. See Romer v. Evans, 517 U.S. 620, 648–49 (1996) (Scalia, J., dissenting). Idaho adopted the constitutional provision on its own, and the 51st Congress, which admitted Idaho into the Union, found its constitution to be ''republican in form and . . . in conformity with the Constitution of the United States.'' Act of Admission of Idaho, 26 Stat. 21.5. To this day, Arizona, Idaho, New Mexico, Oklahoma and Utah state in their constitutions that polygamy is ''forever prohibited.'' See Ariz. Const. art. XX, ¶2; Idaho Const. art. I, §4; N.M. Const. art. XXI, §1; Okla. Const. art. I, §2; Utah Const. art. III, §1.

When commenting on the national policy of marriage as the union of one man and one woman, the Supreme Court declared the following: ''[C]ertainly no legislation can be supposed more wholesome and necessary in the founding of a free, self-governing commonwealth, fit to take rank as one of the coordinate States of the Union, than that which seeks to establish it on the basis of the idea of the family, as consisting in and springing from the union for life of one man and one woman in the holy estate of matrimony; the sure foundation of all that is stable and noble in our civilization; the best guaranty of that reverent morality which is the source of all beneficent progress in social and political improvement.''—Murphy, 114 U.S. at 45.

The national ban on polygamy, or put another way, the national policy of marriage between one man and one woman, is enforced in many ways. A juror who has a conscientious belief that polygamy is right may be challenged for cause in a trial for polygamy, and anyone who practices polygamy is ineligible to immigrate to the United States. See Witherspoon v. Illinois, 391 U.S. 510, 536 (1968) (citing Reynolds, 98 U.S. at 147, 157); 8.U.S.C. §1182(A). That is to say, a polygamous relationship recognized in a foreign jurisdiction will not be legally recognized in the United States.[8]

Although states have traditionally regulated the edges of marriage (divorce, alimony, support, custody and visitation), they have historically never regulated or altered the essence of marriage (the union of one man and one woman). The recent exception is Massachusetts, and the act by that court now threatens the rest of the nation on this central issue of marriage. The FMA merely carries forward the longstanding national policy that marriage is the union of one man and one woman, and thus is consistent with the history of marriage in this country.

V. THE FMA CONTINUES THE NATIONAL POLICY OF MARRIAGE AS ONE MAN AND ONE WOMAN AMONG ALL BRANCHES OF GOVERNMENT

The FMA is designed to maintain the historic status quo regarding marriage as the union of one man and one woman. This core marriage policy therefore applies to all branches of government. If the Executive, Legislative or Judicial branch sought to order, enact or decree same-sex marriage, the FMA would prohibit such action. However, the FMA does not prohibit the legislature from extending legal protection or benefits to same-sex couples.

The argument in the Covington Memo that opines the FMA would tell a state court how to interpret its constitution is undercut by the admission contained in the same paragraph. The memo concedes that ''a state constitution may not permit something that an otherwise valid federal law forbids. . . .'' Our constitutional form of government has never permitted states to interpret their constitutions in a manner that conflicts with the federal constitution. The United States Constitution obviously preempts any state law to the contrary. See Good News Club v. Milford Central Sch., 533 U.S. 98, 107 n.2 (2001) (contrary state law must yield to the United States Constitution); Romer v. Evans, 517 U.S. 620 (1996) (contrary state constitutional provision must yield to the United States Constitution); Falwell v. Miller, 203 F. Supp. 2d 624 (W.D. Va. 2002) (same). The FMA is consistent with constitutional jurisprudence.

VI. THE FMA WOULD DECREASE LITIGATION OVER MARRIAGE

The FMA would limit the judicial chaos that is currently escalating throughout the country.[9] There are currently about 40 separate court challenges over same-sex marriage pending, most of which began since February 12, 2004, the day San Francisco Mayor Gavin Newsom issued licenses to same-sex couples. This number increases daily. Two more suits were filed July 12 in Florida, where three other suits were filed within the past several weeks. The suits throughout the country have one thing in common—a claim that the state and federal constitution require a state to permit two people of the same sex to marry.[10] The FMA would ensure the maintenance of the long-standing national policy; of marriage as the union of one man and one woman. The FMA is designed to bring order and stability to the marriage union and thus to halt the current litigation frenzy.

VII. CONCLUSION

The FMA preserves marriage as the union of one man and one woman, and places the decision on this important matter with the people. Passage of the FMA is the only way to protect marriage and it is entirely consistent with constitutional jurisprudence and federalism.

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FOOTNOTES

[1] The July 2 letter discusses in great detail the 33 lawsuits taking place in 12 states—with lawsuits in 9 of those states commenced since February 12, 2004, when San Francisco Mayor Gavin Newsom began issuing certificates to same-sex couples. In many cases, the most shocking aspect is the willingness of some judges to abdicate their role as judge to become legislator, and the willingness of some state attorney generals to abdicate their role as law enforcement officials to become political activists. Without question, there is a culture-changing debate taking place in this country, but it is not taking place in the state legislatures where elected representatives can debate the issue. Instead, the battle is in the courtrooms of America. Although the fact that courts, and not legislators, have been the ones making the laws granting same-sex couples legal benefits is itself shocking. The disturbing reality is that those who believe marriage should be limited to the union of one man and one woman are frequently not allowed to participate in the courtroom battles. Instead, those who support traditional marriage are often kept out of the litigation by courts, state attorney generals, and the homosexual advocacy organizations on the erroneous theory that same-sex marriage does not concern them and will not harm marriage or the country. Thus, some courts are rushing ahead without the opportunity for debate, dialogue, and with absolutely no evidence concerning the impact same-sex marriage would have on the culture.

[2] The word ''marriage'' appears in the Massachusetts constitution in the only section that places an express restriction on the authority of the judiciary.

[3] A federal lawsuit challenging the Goodridge decision as violating the federal guarantee of a republican form of government—i.e., the court usurped the powers of the legislature—was unsuccessful before the First Circuit Court of Appeals. The Court of Appeals held that absent extreme cases, such as abolishing the Legislature or creating a monarchy, there is no violation of the federal Guarantee Clause. See Largess v. Supreme Judicial Court for State of Massachusetts, 2004 WL 1453033, 1st Cir. (Mass.).

[4] That which a legislative body ''may'' enact on its own is far different than being ''required'' to act pursuant to a court mandate.

[5] The Covington Memo cites the case of Shahar v. Bowers, 114 F. 3d 1097 (11th Cir. 1997) in support of its argument that the FMA would apply to private conduct. This case suggests nothing of the sort. In Shahar, the Attorney General of Georgia withdrew a job offer from an attorney who had participated in a same-sex ''marriage'' ceremony. Absent the FMA, an Attorney General would prevail when choosing to hire or retain staff attorneys. The government as an employer is given great deference in hiring/firing under the application of the Pickering balancing test used in Shahar. The FMA would change nothing with regard to how employees are treated. The statement that people could be ''punished'' under the FMA for private ceremonies cannot be supported by the facts of Shahar—the fact is that the employee was not ''punished'' for entering into a ''same-sex'' marriage. It was a well-publicized, controversial ceremony that was attended by people in the department. Id. at 1101. The revelation that she was ''marrying'' a woman ''caused quite a stir'' in the office, causing staff attorneys to wonder about the employee's decision-making ability under the facts of the case. Id. at 1105–06.

[6] In fact, one need look no further than the Constitution itself to recognize the absurdity of this argument. The Eighteenth Amendment was ratified in 1919 to prohibit the ''manufacture, sale, or transportation of intoxicating liquors. . . .'' However, fourteen years later, the people ratified the Twenty-first Amendment that repealed the ban on liquor. Even a Constitutional Amendment may be changed over time by another Constitutional Amendment.

[7] To the extent that the Thirteenth, Fourteenth and Fifteenth Amendments violated federalism, the states consented to this act by the passage of these amendments.

[8] If same-sex marriage were sanctioned it would be virtually impossible to ban polygamy. When Tom Green was put on trial for polygamy in Utah in 2001, several articles and editorials appeared in various newspapers supporting the practice of polygamy (*The Village Voice*, *Washington Times*, *Chicago Tribune*, and the *New York Times*). Although the ACLU initially tried to minimize the idea of the slippery slope between gay marriage and polygamy, the ACLU itself defended Tom Green during his trial and declared its support for the repeal of all ''laws prohibiting or penalizing the practice of plural marriage.'' Polyamory (group marriage) is also an inevitable consequence of sanctioning gender-blind marriage. *See* Deborah Anapol, Polyamory: The New Love Without Limits. Paula Ettelbrick, former legal director for Lambda Legal Defense and Education Fund, supports same-sex marriage and state-sanctioned polyamory. Ettelbrick teaches law at the University of Michigan, New York University, Barnard and Columbia. A number of other law professors similarly promote polyamory, including Nancy Polikoff at American University, Martha Fineman at Cornell University, Martha Ertman at the University of Utah, Judith Stacey, the Barbara Streisand Professor of Contemporary Gender Studies at the University of Southern California, and David Chambers at the University of Michigan.

[9] The Civil Rights Act of 1964 began an explosion of litigation. A current search on Westlaw for only the employment provision section of the Act (Title VII) reveals 10,000 federal cases, which is the maximum number of cases Westlaw can retrieve. All of the federal and state cases would amount to several tens of thousands of cases. However, the fact that the Civil Rights Act spawned litigation is not sufficient reason to refrain from passing the Act. In the case of the FMA, the litigation is sure to decrease.

[10] One Utah case argues that polygamous marriage should be permitted.

Mr. CORNYN. At this point, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, on the Fourth of July, as many of my colleagues, I covered my State, and, as I have done for many years on the Fourth of July, I ended up in Dover, DE. Dover, DE, on the evening of July 4 is a politician's dream. People have had a full day of parades and family gatherings, community gatherings. We are there to await the fireworks when dusk finally comes. Roughly 10,000 people gathered in front of Legislative Hall, a huge American flag that almost masked Legislative Hall in its majesty, a C–5 aircraft soon to fly overhead, and then the fireworks themselves.

I work the crowd at that gathering, and it is a lot of fun. People are in a good mood, a lot of good-natured kidding going on: Are you running for anything this year? No, I am not, I am just here because I love being in Dover on the evening of the Fourth of July.

There was one serious question, at least one that was raised to me that evening. The question was: How are you going to vote on that amendment on gay marriage? In responding to that question, I pointed to Legislative Hall and I said to the questioner: When I was Governor of this State in 1996, I signed into law our own Defense of Marriage Act that said marriage is between a man and a woman. I believed that then. I believe it now.

Later that evening I addressed the crowd, and I alluded to the Declaration of Independence. But I spoke more about the Constitution, a copy of which I hold. The Constitution of the United States was first ratified in Delaware. I told the crowd that night that the Constitution was ratified in the Golden Fleece Tavern about 300 or 400 yards from where we gathered.

We all know the Constitution does a number of things. It establishes a framework of government. It says, this is how our Government is going to work. We will have three branches of Government: a legislative, executive, and a judicial branch. It says, there are certain things the Federal Government should be doing and certain responsibilities that are left to the States.

Among the responsibilities left to the States in this Constitution are matters of family law: Who can marry, how do we divorce, how do we end those marriages, who gains custody of the children, how about visitation rights, matters of alimony, property settlement, and the like. Those are matters that we have left to the States for over 200 years.

Senator CORNYN mentioned the concern he has over the state of marriage. I share it. Half the marriages in our country today end in divorce. Too many kids grow up in families where nobody ever marries, and families are not invested enough in their children.

I also acknowledge the concern over efforts in some parts to recognize same-sex marriage. That concern has led many States to enact laws such as my State's Defense of Marriage Act and to enact here in this Congress the Defense of Marriage Act as well. That concern over proposals for same-sex marriage has led some States to actually consider constitutional amendments.

With respect to same-sex marriages, let me offer this: There are a lot of views, but two of those views are basic when you cut to the chase. View No. 1: marriage is between a man and a woman. The alternative view is marriage is between two people. I think the

view of most Americans today—not all but most Americans today—is that marriage is between a man and a woman.

The question for us to consider here today is this: Is there a clear need to amend the Constitution of our country to ensure that the view I have just stated, the majority view, prevails in States such as Delaware and others? It is a legitimate question. As we seek to answer it, let's consider a couple of examples of State laws spelling out how marriage is supposed to operate and whether those laws have been sustained over the years. Let me mention three examples.

A number of States have prohibitions against first cousins marrying. If two people live in a State where you have a man and woman who are first cousins and they want to get married, they go to another State to get married and return to their State. Their State does not have to acknowledge the validity of the marriage.

Some States have restrictions with respect to divorce. If you get a divorce, you have to wait a while before you can remarry. If you live in a State with that restriction and you go to another State that doesn't have those restrictions, you return to your State, your State does not have to recognize that marriage.

We have all seen movies about May-December marriages and how they can be interesting and entertaining, but a lot of States have a law that says a 57-year-old man can't marry a 13-year-old girl, and if you try to do that in a State where maybe you could get away with it, and you move back to your State, that marriage will not be recognized. Those State laws have been sustained whether we have a constitutional amendment.

I believe that my law in Delaware will also be sustained without a constitutional amendment. If it isn't, then this is an issue that we can revisit, and I think we will.

This Constitution that I hold in my hand is the work of man. I think it was divinely inspired. The folks who met at the Golden Fleece Tavern and the people in Constitution Hall in Philadelphia a long time ago largely got it right the first time—not entirely, but they largely got it right. This Constitution has been rarely changed. It is not easy to do. That is purposeful. Over 11,000 amendments have been proposed to this Constitution. To date, since the adoption of the Bill of Rights, 17 have actually been incorporated as amendments to this Constitution.

On the issue of marriage and divorce alone, 129 amendments have been proposed to the Constitution. None have come close to passage. All of us today and all of us who will vote today realize this proposed constitutional amendment is not going to be enacted either.

It is an important issue that has been raised. As some have said, it is one that, frankly, divides us and divides us deeply.

When the last speech is given today, when the final vote is cast around 12:15 or 12:30, my fervent hope is that we will turn to some issues that unite us and, frankly, need to be addressed. They are closely related to what we are talking about today. We need to look no further than the 1996 Welfare Act that was adopted in this Chamber which has expired and been continued with short-term extensions time and again. It needs to be reauthorized. We need a vote on it and, frankly, to improve it. It is not perfect. We can make it better. We can strengthen marriage through the provisions of that law. We can strengthen families. We can increase the likelihood that more of America's children are going to grow up in homes where both parents are deeply committed to them and to their future, that they have decent childcare. We can do that.

I hope when we finish today and this issue is behind us for a while, that we will turn to another closely related issue that will truly strengthen America's families. That is, to return to the issue of welfare reform and pass the legislation out of committee and send it to the House. Let's get on with the Nation's business.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. CORNYN. Could I ask for a brief unanimous consent request?

Mr. LIEBERMAN. I yield to the Senator for a request.

Mr. CORNYN. I believe we have been going back and forth to each side. I certainly want to accommodate the Senator so everyone will be able to be heard, but we also have some folks on our side.

Mr. LIEBERMAN. Go right ahead.

Mr. CORNYN. I ask unanimous consent that Senator ALLARD be recognized for 5 minutes out of the 25 minutes remaining on our side until the chairman comes to the floor and the leadership time is reserved under a previous consent, and then Senator SANTORUM be recognized as our next Republican speaker for 10 minutes on our side, and then finally the last 5 minutes of that 25-minute segment, that Senator SESSIONS be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado.

Mr. ALLARD. Mr. President, I thank the Senator from Texas for allowing me the opportunity to speak. Just to get some business out of the way, I have some materials I have submitted at the desk. I ask unanimous consent to print them in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JULY 12, 2004.

To: Senator Orrin Hatch, Chair, United States Senate Judiciary Committee.

From: Professor Teresa S. Collett.

Re: Response to recent concerns regarding the meaning, reach, and consistency of the Federal Marriage Amendment with constitutional principles.

Having served as a witness in favor of the Federal Marriage Amendment, SRJ 40, (hereinafter ''FMA'') before the Senate Judiciary Committee on March 23, 2004, which was chaired by Senator Cornyn, I have been asked to respond to various objections regarding its passage.

There are four common objections to the FMA. Opponents claim that the FMA is self-contradictory, with the first sentence prohibiting what the second permits in certain cases. Second, they claim that the amendment prohibits private recognition of same-sex unions as marriages. Third, they argue that the amendment is anti-democratic because it removes the definition of marriage from the arena of state law and creates a uniform federal definition. Finally, and in contradiction to the last point, they argue that the amendment will increase litigation over the meaning of marriage. None of these objections have merit.

THE AMENDMENT IS NOT INTERNALLY CONTRADICTORY

The starting point for any analysis of a constitutional amendment is the text, with an intention to give effect to every word. *Marbury* v. *Madison*, 5 U.S. 137 (1803). See also *Kaiser Aluminum & Chem. Corp.* v. *Bonjorno*, 494 U.S. 827, 835 (1990). As proposed, the FMA provides:

''Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.''

The meaning of the first sentence of the FMA is clear. Opponents typically do not dispute this. Rather they assert the confusion arises because it is possible to read the second sentence of the FMA as allowing legislatures to create that which the first sentence clearly prohibits—same-sex marriage (at least insofar as it is done, not due to constitutional imperative, but rather due to some alternative legitimate legislative motivation). While such a reading is theoretically possible, it violates one of the most basic canons of construction: ''The plain meaning of a statute's text must be given effect 'unless it would produce an absurd result or one manifestly at odds with the statute's intended effect.' '' *Arnold* v. *United Parcel Service, Inc.*, 136 F.3d 854, 858 (1st Cir. 1998) (quoting *Parisi by Cooney* v. *Chater*, 69 F.3d 614, 617 (1st Cir. 1995)). Since such an interpretation would render the FMA ''self-contradictory'' and ineffectual, it should be rejected under ordinary principles of construction.

Opponents also argue that the phrase ''legal incidents'' of marriage is unclear and will require extensive judicial interpretation. Yet this is a phrase that has been used routinely in the discussion of marital rights. Justice Brennan used it in his concurring opinion in *Boddie* v. *Connecticut*, 401 U.S. 371 at 387 (1971). ''Legal incidents of marriage'' is also found in various state appellate opinions that have been rendered over the past sixty years. See, e.g., *Sanders* v. *Altmeyer*, 58 F.Supp. 67, 68 (D.C. Tenn. 1944); *Adler* v. *Adler*, 81 N.Y.S.2d 797, 800 (N.Y. Dom. Rel. Ct. 1948); *Ramsay* v. *Ramsay*, 90 A.2d 433, 435 (R.I. 1952); *Shipp* v. *Shipp*, 383 P.2d 30, 32 (Okla. 1963); *Rosenstiel* v. *Rosenstiel*, 209 N.E.2d 709, 712 (N.Y. 1965); *Perrin* v. *Perrin*, 408 F.2d 107, 110 (3rd Cir. 1969); *Merenoff* v. *Merenoff*, 388 A.2d 951, 953 (N.J. 1978); In re *Marriage of Epstein*, 592 P.2d 1165, 1169 (Cal. 1979); *Baker* v. *Baker*, 468 A.2d 944, 947 (Conn. Super. 1983); *Koppelman* v. *O'Keeffe*, 535 N.Y.S.2d 871, 873 (N.Y. Sup. App. Term, 1988); *Baehr* v. *Lewin*, 852 P.2d 44, 74 (Hawaii 1993) (Heen J. dissenting); and In re *Opinions of the Justices to the Senate*, 802 N.E.2d 565, 572 (Mass. 2004).

The proper interpretation of the amendment is that offered by the sponsors and

drafters: to preserve marriage as the union of a man and a woman, while leaving to states the question of whether to legislatively create alternative legal arrangements such as civil unions or reciprocal beneficiary status for individuals who are not eligible to marry. See Senator Wayne Allard, Federal Marriage Amendment Testimony, United States Senate Judiciary Committee (March 23, 2004), at http://allard.senate.gov/issues/item.cfm?id=219463&rands__type=4; Representative Marilyn Musgrave, Federal Marriage Amendment Testimony, United States House of Representatives Judiciary Subcommittee on the Constitution (May 13, 2004) at http://www.house.gov/judiciary/musgrave051304.htm, and Robert Bork, The Musgrave Federal Marriage Amendment, United States House of Representatives Judiciary Subcommittee on the Constitution (May 13, 2004) at http://www.house.gov/judiciary/bork051304.htm. See also Rahul Mehra, Professor Helps Draft Amendment, The Daily Princetonian (Feb 18, 2004) at http://www.dailyprincetonian.com/archives/2004/02/18/news/9652.shtml.

Fair-minded opponents of the FMA have acknowledged that the current language is clear in its prohibition of same-sex marriage, and its recognition of the legislative ability to create alternative legal relationships such as civil unions. On March 22, 2004, Professor Eugene Volokh, who opposes the FMA, noted on his weblog that the amended language ''clearly lets state voters and legislatures enact civil unions by statute''. The Volokh Conspiracy at http://volokh.com/archives/archive_2004_03_21.shtml. Professor Cass Sunstein, another opponent to the FMA also agreed that the state legislature could pass a law to establish civil unions. Response to written questions propounded by Senator Dick Durbin (March 23, 2004).

THE AMENDMENT DOES NOT PROHIBIT PRIVATE RECOGNITION OF SAME-SEX UNIONS

Perhaps the most creative argument of opponents is that the FMA would allow states and other governmental bodies to ''punish religious organizations and individuals for performing or participating in religious marriages of same-sex couples. . . .'' This argument is crafted by analogizing the FMA to the Thirteenth Amendment which provides in pertinent part, ''Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.'' The Thirteenth Amendment is the exception to the general rule that constitutional provisions are limitations on state action, rather than private action. Compare *Jones* v. *Alfred H. Mayer Co.*, 392 U.S. 408, 438 (1968) (Congress has power under Thirteenth Amendment to enact legislation to prohibit private acts that erect racial barriers to the acquisition of property) with *Bray* v. *Alexandria Women's Health Clinic*, 506 U.S. 263, 278 (1993) (no violation of constitutional right to privacy occurs absent state interference with woman's right to abortion) and *United Brotherhood of Carpenters and Joiners of America* v. *Scott*, 463 U.S. 825, 831–32 (1983) (state action is necessary to establish conspiracy to violate First Amendment). Based upon this fact, and the absence of any language in the FMA expressly limiting the amendment to state action, opponents claim that any private recognition of same-sex marriages would become punishable at law.

This ignores important differences in the language of the two amendments, however. Section (a) of the Thirteenth Amendment is written as a prohibition, with a narrow exception. In contrast, the first sentence of the FMA is written as an affirmation of the nature of marriage, with the second sentence limiting the ability of courts to redefine marriage in the guise of constitutional adjudication. Rather than a distinct provision, the first clause functions as an introduction to the second. There is nothing in the language of the FMA or the legislative history to date that suggests any intent to disrupt the current ability of religious communities to determine their understanding of marriage and divorce. See *Hames* v. *Hames*, 163 Conn. 588 (Conn. 1972) (religious ceremony insufficient to constitute civil marriage); *Marazita* v. *Marazita*, 27 Conn. Supp. 190 (Conn. Super. Ct. 1967) (wife's religious belief in indissolubility of marriage not sufficient to deprive court of jurisdiction in divorce proceeding); *Knibb* v. *Knibb*, 94 N.J. Eq. 747, 748 (N.J. 1923) (suit for divorce due to refusal to marry in Church); *Victor* v. *Victor*, 177 Ariz. 231 (Ariz. Ct. App. 1993) (court without authority to order Jewish divorce); In re *Marriage of Dajani*, 204 Cal. App. 3d 1387 (Cal. Ct. App. 1988) (American court could not enforce Islamic law).

Given the long history of détente between Church and State in this country regarding the regulation of marriage and divorce, the reasonable assumption is that the FMA will control governmental actions related to civil marriage, and religious bodies will continue to define their own entry and exit requirements for marriage. To the extent there is any merit in opponents' analogy to the Thirteen Amendment, its interpretation supports this conclusion. In *Robertson* v. *Baldwin*, 165 U.S. 275 (1897) two deserting seamen argued that they could not be forced to fulfill their commitment in light of the constitutional prohibition of involuntary servitude. The Court disposed of this argument opining:

''It is clear, however, that the amendment was not intended to introduce any novel doctrine with respect to certain descriptions of service which have always been treated as exceptional, such as military and naval enlistments, or to disturb the right of parents and guardians to the custody of their minor children or wards. The amendment, however, makes no distinction between a public and a private service. To say that persons engaged in a public service are not within the amendment is to admit that there are exceptions to its general language, and the further question is at once presented, where shall the line be drawn? We know of no better answer to make than to say that services which have from time immemorial been treated as exceptional shall not be regarded as within its purview.'' 165 U.S. at 282.

The continuing viability of this case is evidenced by the Court's reliance on it in *United States* v. *Kozminski*, 487 U.S. 931, 942–44 (1988) (adopting a narrow construction of coercion sufficient to constitute involuntary servitude).

While opponents raise the specter of organized persecution of religious communities that perform same-sex marriage rituals, the international experience suggests quite the opposite. It is defenders of traditional marriage that have cause to worry. Last month a pastor is Sweden was sentenced to one month in jail based on a sermon opposing homosexual conduct. In Canada there have been criminal convictions under hate speech laws for publication of an advertisement opposing same-sex marriage that merely cited Bible verses without quoting them. The Irish Council on Civil Liberties publicly threatened priests and bishops who distribute a Vatican publication regarding homosexual activity with prosecution under incitement to hatred legislation.'' In Spain, Madrid's Cardinal Varela gave a sermon condemning gay marriage. He has been sued by the Popular Gay Platform for ''slander and an incitement to discrimination on the basis of sexual orientation.'' In England, self defense was denied to a pastor who defended himself when assaulted by several attackers while carrying a sign citing Bible verses regarding homosexual conduct. Last fall, an Anglican Bishop in England was investigated under hate crimes legislation and reprimanded by the local Chief Constable for observing that some people can overcome homosexual inclinations and ''reorientate'' themselves. In Belgium, an 80-year old Cardinal was sued over his comments regarding homosexuality. In each of these countries what began with demands for ''tolerance'' has transformed into demands for acceptance at the price of religious liberty.

A similar transformation seems plausible in light of the continuing attacks on the integrity of the proponents and supporters of the FMA. Opponents of the FMA consistently seek to associate the effort of those who seek to protect the institution of marriage with those who sought to stabilize the institution of racial segregation. This charge is both insulting and inaccurate. While leadership of the African-American community may be divided over whether to support the FMA at this time, they are not divided over whether racial segregation is desirable. Although they differ in their positions on the merits of the amendment itself, Rev. Jesse Jackson, Rev. Walter Fauntroy, and Hilary Shelton of the NAACP are all unwilling to equate defense of traditional marriage with racial discrimination, as are other prominent civil rights leaders. Similarly, the willingness of a substantial majority of both chambers of Congress just a few short years ago to vote for the federal Defense of Marriage Act does not equate with bigotry, and any attempts to do so are merely activists' attempts to cut off public debate regarding the need of a child to be raised by his or her mother and father.

THE FMA IS A DEMOCRATIC SOLUTION TO THE PROBLEM OF JUDICIAL USURPATION OF THE POLITICAL DEBATE REGARDING SAME-SEX UNIONS

The FMA is the only method available to preserve the ability of the people and their elected representatives to speak on the issue. This is because of the very real possibility that the United States Supreme Court will impose an obligation on states to recognize same-sex unions as marriages in the guise of constitutional adjudication. Building on the Court's statements in Lawrence v. Texas equating heterosexual and homosexual experiences, and its statements in Romer v. Evans attributing animus to those who would make any distinctions, many constitutional law scholars have opined that the Court appears poised to mandate same-sex marriage in the upcoming years.

In commenting on the Lawrence opinion's relationship to judicial recognition of same-sex marriage, Professor Laurence Tribe of Harvard said, ''I think it's only a matter of time''. Professor Erwin Chemerinsky of USC has observed, ''Justice Scalia likely is correct in his dissent in saying that laws that prohibit same-sex marriage cannot, in the long term, survive the reasoning of the majority in Lawrence.'' Prudence demands that the matter be addressed by the people, before the Court takes the issue away from them.

THE AMENDMENT IS UNLIKELY TO INCREASE LITIGATION

Marriage has become a question of constitutional law through gay activists' unrelenting attacks on marriage statutes in the courts. Judges in Hawaii, Alaska, Vermont, and Massachusetts have already mandated recognition of same-sex marriage. The citizens of Hawaii and Alaska responded to the actions of their courts by amending their state constitutions to correct what was largely perceived as judicial overreaching.

Vermont legislators did not afford their citizens the opportunity to correct this judicial interpretation, instead passing Act 91, An Act Relating to Civil Unions.

The most recent and troubling ruling, however, is Goodridge v. Dept. of Public Health, an opinion of the Massachusetts Supreme Judicial Court declaring that state's marriage laws unconstitutional. Chief Justice Margaret Marshall opens her opinion with a review of the recent United States Supreme Court opinion, Lawrence v. Texas. Finding there was no rational reason supporting traditional marriage, she gave the legislature 180 days to ''take appropriate action'' in light of the opinion, which was widely interpreted as an ''order'' to create a ''gay marriage''. Although a Massachusetts statute prohibits the issuance of a marriage license to non-residents whose home state would not recognize the unions, hundreds of out of state couples flocked to Massachusetts to be married. One of the first Massachusetts marriage licenses was issued to a Minnesota same-sex couple, who describe their relationship as an ''open marriage,'' saying the concept of permanence in marriage is ''overrated.'' The Massachusetts Legislature is moving forward with a state constitutional amendment, but the people of that state will not be allowed to vote on it until fall of 2006.

Unfortunately Massachusetts is not the only state where activists are currently demanding that judges redefine marriage. At this time California, Florida, Indiana, Maryland, Nebraska, New Jersey, New York, North Carolina, Oregon, Utah, Washington, and West Virginia are defending their marriage laws in the courts. Based on news reports, it is likely that Pennsylvania, South Carolina, and Tennessee may soon be defending their statutes in the courts as well. Add to these fifteen states, the three states of Hawaii, Alaska and Vermont that have already responded to judicial overreaching on this issue, and Massachusetts which remains embroiled in a political fight to return the issue to the people, as well as the states of Arizona, Connecticut, Iowa, and Texas where courts have resolved the issue—and almost half the country's laws are, or have been, under attack by a small group who want to force their will on the people in the guise of constitutional adjudication.

It seems unlikely that the passage of the FMA, which removes the definition of marriage from further judicial redefinition, could increase litigation beyond the present level.

CONCLUSION

Activists have been unable to succeed in changing the definition of marriage legislatively so they have turned to the courts. Unfortunately some judges are increasingly willing to disregard the text of the laws—as well as the political will of the people—in judicial efforts to remake the institution of marriage to suit their own particular political views. This is not the proper process to be followed in a democratic republic. It is the people and their elected representatives who should determine the meaning and structure to marriage through the process of political debate and voting.

The Federal Marriage Amendment, with its requirements of passage by two-thirds of each house of Congress and ratification by three-quarters of the states, follows the Founders' model for open, yet orderly change in our governing document. The text of the Amendment is clear and preserves the understanding of marriage that has existed throughout this nation's history, while allowing for individual states to experiment with alternative legal structures as their citizens deem appropriate. Unlike the hypothetical threats that opponents attempt to manufacture, the FMA addresses real cases and real problems that the people of this nation are encountering with the judicial usurpation of the political process.

[From iMAPP, July 12, 2004]

IS DOMA ENOUGH? AN ANALYSIS

(By Joshua K. Baker)

INTRODUCTION

Do we need a constitutional amendment to protect marriage? Some influential elites question the need for a constitutional amendment. As Senator Susan Collins (R–Maine) told the Boston Globe earlier this year, ''I don't at this point see the need for a constitutional amendment as long as the Defense of Marriage Act remains on the books.''

For people who define the problem as the involuntary spread of same-sex marriage from one state to others, a key question becomes: Are federal DOMA laws enough?

DEFINING DOMA

The federal DOMA law contains two sections, stating:

Section 1. In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word ''marriage'' means only a legal union between one man and one woman as husband and wife, and the word ''spouse'' refers only to a person of the opposite sex who is a husband or a wife.''

Section 2. No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession or tribe, respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other state, territory, possession or tribe, or a right or claim arising from such relationship.

The first part creates a federal definition of marriage for the purposes of federal marriage law. Considerable litigation is likely to arise from conflicts between federal law and laws in states in which courts mandate recognition of same-sex marriage, or marriage equivalents. Such cases will increase the temptation for the Supreme Court to create a national definition of marriage on equal protection grounds, as otherwise, legally married couples in different states will be treated substantially differently under federal law.

The second part of DOMA restates general conflict of laws principles: no state is required to recognize a marriage that violates its own public policy. However, it provides no additional legal protection for the people of a state whose judicial elites create a right of same-sex marriage in the state constitution or choose to recognize same-sex marriages performed elsewhere.

*I. Is Federal DOMA Enough?*

DOMA laws are unlikely to prevent the spread of same-sex marriage from one judiciary to the other, for the following reasons:

A. The groundwork for DOMA's demise has already been laid in the scholarly literature. Legal experts argue DOMA can be struck down in federal court because it violates principles of equal protection, liberty/due process and full faith and credit.

B. The legal threat to federal DOMA laws is now imminent, because Massachusetts has, for the first time, given plaintiffs standing to challenge the federal law. Previously, courts held that absent a legal state marriage, persons have no standing to challenge the federal DOMA law. Newspaper reports indicate that there are now thousands of couples in at least 46 states who have received marriage licenses in Massachusetts, California or Oregon, and now have standing to challenge DOMA in federal courts.

C. DOMA won't keep legal elites from creating same-sex marriage in many states. Already, in just eight months since the Goodridge decision, activists have filed cases across the country seeking to strike down state marriage laws. Today such cases are pending in at least 11 states, including six states which have adopted state DOMA legislation in recent years. Attorneys general and local officials in California, New York and elsewhere are refusing to defend state marriage laws, or are insisting that their state recognize same-sex marriages performed elsewhere.

The New York Attorney General, following the lead of a 2003 trial court judgment, has already indicated that New York law ''presumptively requires'' recognition of same-sex marriages from Massachusetts. When San Francisco Mayor Gavin Anderson and his counterparts in a handful of other cities across the country began issuing same-sex marriage licenses, the California attorney general chose to simply petition the California Supreme Court for ''resolution of these important issues,'' rather than present an affirmative defense of the state's marriage law. Shortly thereafter, the mayor of Seattle in March declared that his city (and all private groups that contract with the city) must recognize as valid the same-sex marriages of employees, wherever performed.

D. There will be a national definition of marriage, ultimately. The question is whose? Radically different marriage laws in different states are difficult to sustain over time. A federal definition of marriage that is different from state definitions of marriage produces immediate conflicts in many areas of law that the Supreme Court will be tempted to harmonize by ordering recognition of same-sex marriage on equal protection grounds. One way or the other, we will soon have a national definition of marriage. If we pass a marriage amendment, we will retain our shared understanding of marriage as the union of husband and wife, ratified by the people of the United States. If we accept judicial supremacy on the marriage question, we will probably end up with a judicially created and approved national marriage definition that redefines marriage in unisex terms.

E. Legal scholars from both sides agree: Federal courts are now poised to strike down state marriage laws. Speaking about the recent Supreme Court decision *Lawrence* v. *Texas,* Harvard Law Professor Lawrence Tribe commented, ''You'd have to be tone deaf not to get the message from *Lawrence* that anything that invites people to give same-sex couples less than full respect is constitutionally suspect.'' Georgetown Law Professor Chai Feldblum agreed, stating, ''[A]s a matter of logic and principle, there is no reason not to provide the institution of marriage for gay people. The court is leaving that open for the future.'' Professor William Eskridge of Yale Law School stated ''Justice Scalia is right'' that *Lawrence* signals the end of traditional marriage laws. Jon Bruning, Attorney General of Nebraska, testified before the Senate in March that a federal judge is likely to soon declare Nebraska's state constitutional marriage amendment unconstitutional: ''This is the first federal court challenge to a state's DOMA law. My office moved to dismiss the suit, but last November, the Court denied our motion to dismiss. The language in the Court's order signals that Nebraska will very likely lose the case at trial.''

F. Federal lawsuits attacking marriage laws have already been filed in four states. While most marriage litigation has historically been based on state constitutional provisions, in just the past year, cases in three

states (Florida, Arizona, and Nebraska) have brought federal constitutional challenges to both state and federal DOMA laws on equal protection, due process and full faith and credit grounds. In June, the same lawyers that filed the *Goodridge* case in Massachusetts also filed suit alleging that a state iaw which prevents out-of-state same-sex couples from marrying in Massachusetts violates the Privileges and Immunities Clause of the 14th Amendment.

G. It's not the full faith and credit clause, it's the 14th amendment. Scholars who have testified that DOMA is constitutional under the Full Faith and Credit Clause of Article IV of the Constitution miss the primary threat to DOMA. DOMA's greatest threat springs not from the relatively settled world of Full Faith & Credit jurisprudence, but from the Supreme Court's evolving view of equal protection and personal liberty, as evidenced by such recent cases as *Lawrence* v. *Texas*, 539 U.S. 558 (2003) and *Romer* v. *Evans*, 517 U.S. 620 (1996). As Justice Scalia noted in his *Lawrence* dissent, this evolving jurisprudence not only threatens DOMA, but also poses a substantive threat to individual state marriage laws.

H. A federal injunction to strike down DOMA will take only minutes. A Constitutional amendment takes months or years to pass. If we want to protect marriage as the union of husband and wife, the time to act is now.

*Il. Does a marriage amendment violate principles of federalism?*

Many legal analysts argue that a constitutional amendment that creates a national definition of marriage violates fundamental principles of federalism. In a letter to Senate Constitution Subcommittee Chairman John Cornyn last September, six law professors including Eugene Volokh of UCLA and Dale Carpenter of the University of Minnesota wrote ''[T]here is no need to federalize the definition of marriage. . . . if marriage is federalized, this will set a precedent for additional federal intrusions into state power.'' Are they correct?

No, for the following reasons:

A. Many fundamental institutions are national in scope. The Constitution already contains such fundamental institutions as representative government (through the guarantee clause, art. IV, §4) and private property (through the takings clause, Fifth Amendment). A marriage amendment would acknowledge marriage as a fundamental institution, while still leaving the states significant regulatory discretion (procedures, age, consanguinity, etc.).

B. Marriage law has always been subject to federal legal oversight. This is not unlike the federalist model which permits states to experiment with term limits, elected judiciaries, or unicameral legislatures, subject to the underlying guarantee of representative government; or varying state policies on eminent domain, taxation, and rights of way, subject to the underlying premise that government cannot take property without compensation. A marriage amendment would simply clarify that husbands and wives are an essential part of our fundamental, shared American understanding of marriage.

C. The basic definition of marriage has long been considered a national question. The Supreme Court has already affirmed the right of Congress to sustain a national definition of marriage that excludes polygamy. Without Congress' decisive intervention, upheld by the Supreme Court, we would today have polygamy in some states and not in others. Today, it is federal and state courts that threaten our common definition of marriage. As former Attorney General Ed Meese argued in favor of a constitutional amendment creating a national definition of marriage, ''If marriage is a fundamental social institution, then it's fundamental for all of society.'' As the Supreme Court stated in *Reynolds* v. *United States*, ''there cannot be a doubt that, unless restricted by some form of constitution, it is within the legitimate scope of the power of every civil government to determine whether polygamy or monogamy shall be the law of social life under its dominion.''

*III. Why not wait until DOMA has been struck down?*

A. Waiting until the problem gets worse will not make it easier to solve. A patchwork of different state and local laws will sow confusion for couples, for businesses, for state and local governments. If we intend to protect marriage as the union of husband and wife, the time to settle the question is now.

B. There will never be a magic moment in which to amend the Constitution. Today opponents argue it is too early, because DOMA still exists. Three years from now, DOMA may be struck down and others will say it is too late—tens of thousands of same-sex couples will have already married.

C. The best time for affirming a common definition of marriage is before SSM becomes widespread. If it could be ratified today, a marriage amendment would merely reaffirm the law of 49 states, while undoing eight weeks of change in Massachusetts. Looking ahead, it is difficult to foresee a time where a constitutional amendment defining marriage could be adopted with less legal and personal disruption.

D. The amendment process takes time. A federal judge could enjoin DOMA tomorrow, yet it would take months and perhaps years to propose and ratify the federal marriage amendment.

E. A constitutional amendment is not a constitutional crisis. In the last century, we amended our constitution twelve times, including twice in the 1930's, three times in the 1960's, and again in 1971 and 1992. The amendment process is, by design, not a sign of constitutional crisis, but rather a great democratic and federalist process for reaching national consensus on questions of great importance. Marriage is worth it.

Mr. ALLARD. I thank some 19 cosponsors who are now on this amendment. I thank the majority leader for stepping forward and helping this particular issue. I thank the President of the United States for stepping forward early on and articulating the principles which are embodied in this constitutional amendment. I particularly thank my colleagues, Senators BROWNBACK, SANTORUM, and SESSIONS, for joining me in the late-night session last night and for Senators CORNYN and HATCH for helping manage the bill on the floor, as well as Congresswoman MUSGRAVE in the House for her leadership.

I didn't come to the decision to introduce this legislation easily. I went through a process of evaluating the issue.

I don't think it is unlike what many Members of the Senate are going through right now, or at some point in time went through, because as the initial sponsor of this legislation, I had an opportunity to talk to many Members and I think their response was very much what mine was to start with: Why do we need to amend the Constitution?

We all recognize how precious that document is. When anybody comes to you with an issue, to start with, you always wonder why do we need to do that. That is a high standard and we all recognize that.

I also remember the debate with the Defense of Marriage Act, DOMA, which was carried by Senator NICKLES on this side, and how important most Members of the Senate—85 Members—felt in that vote that we define marriage as between a man and a woman.

In this debate, I wanted to protect traditional marriage. I also had some skepticism about amending the Constitution. But after sitting down with colleagues and scholars and people who were following the courts, I came to the realization that there was a process going on in the courts that I wasn't aware of, that I just had become aware of.

I understood the potential of what was going to happen in those courts. It was, when I first got involved, that the courts were going to change the definition of marriage, which we passed by 85 votes in the Senate, and on which close to 48 States passed legislation somehow or other supporting traditional marriage. I thought this should be brought into the legislative branch—that is where the debate should occur—where we have elected representatives having an opportunity to reflect their views and the views of their constituents, whether it is in the Congress or the State legislature.

So in visiting with the constitutional scholars, academicians, professors, and whatnot, we began to put together some language for the Constitution, very carefully crafted, and the language has had an opportunity to be changed a couple of times. We brought it back into the Senate and had the staff within the Judiciary Committee reflect their views and the Senators would reflect views, always working toward a consensus. We began to realize more and more clearly what was happening in the courts.

As we move through it this year, I think it becomes blatantly evident to us that there is a process going on in the courts that will exclude the American citizens. We need to get them involved. We need to recognize that the Constitution requires a two-thirds vote in the House and Senate and three-quarters of the States to ratify.

Our forefathers realized that during an issue such as marriage, where a large percentage of Americans of all faiths, all ethnic backgrounds, support the idea of traditional marriage—the effort to change the definition of traditional marriage being between a man and a woman is certainly only being pushed by a minority of the population in this country—the way we can express our views is through a constitutional amendment. That is what we have before us today.

In this amendment I have proposed, we define marriage as a union between a man and a woman.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. ALLARD. I ask unanimous consent for 30 more seconds to bring my comments to a close.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. Marriage matters to our children; it matters in America. Marriage is the foundation of a free society. The courts are redefining marriage and that will make it impossible for State legislators to address marriage. This amendment puts the issue back in the hands of the people. A vote not to move forward means the court will be the sole voice in this matter. The people will not have a voice. We need to move forward.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I rise to express my opposition to the Federal marriage amendment because I believe this effort to amend the Constitution is premature, unnecessarily divisive, and denies our States rights that they have long had.

My opposition to this constitutional amendment is, in effect, quite similar to the views stated by Vice President DICK CHENEY in our debate during the 2000 campaign. Mr. CHENEY said then, when it comes to gay marriage:

I think different States are likely to come to different conclusions, and that is appropriate. I don't think there should necessarily be a Federal policy in this area. I try to be open minded about it as much as I can and tolerant of those relationships.

He was widely applauded for those remarks, and rightly so. His wife Lynne Cheney said this just this past Sunday:

The formulation he used in 2000 was very good.

She is right.

Marriage is an issue best left to the States in our constitutional and legal frameworks.

Unfortunately, in its pursuit of this amendment, the administration has abandoned the openminded and tolerant position Vice President CHENEY took in 2000 and, apparently, he, too, has done so. That is unfortunate and it is divisive.

The Constitution is, after all, our Nation's most sacred secular document. That is a combination of words that may surprise some, to call something secular sacred. But we all know intuitively that is what the Constitution is.

In a literal way, the Constitution was adopted by its own words, to ''secure the blessings'' of liberty, which the Declaration of Independence says are the people's endowment from their Creator.

For well over 200 years, this document has provided our Government with its guiding hand, its blueprint for governing, and, equally important, a clear and enforceable articulation of the limits of Federal Government power.

Part of the genius of the Constitution lies in the fact that, as it unites us, it also stands above us and our elected representatives, articulating enduring governing principles, rather than providing a quick answer for every new day's question. The brilliance of our Nation's Founders was that they drafted a Constitution but left it to succeeding generations of legislators, both in Washington and in the States, to decide the issues of the day, with the recognition that statutes can be changed with relative ease, while a Constitution endures for the long term.

Those who wish to elevate an issue to the constitutional level, therefore, in my opinion, bear a heavy burden of showing it is absolutely necessary to do so. That is not just my view; it is the clear consensus of our Nation throughout its history. Only 27 times over the past 217 years has the Constitution been amended, and the first 10 of those amendments constitute our revered Bill of Rights, passed almost as part of the Constitution itself.

So I have concluded that we should accept the proposed amendment before us today only if we are absolutely convinced not just of its rightness but of its necessity. After looking at the laws of the land today regarding marriage and closely examining the text of the proposed amendment before us, I conclude that burden has not been met.

Let me be clear. I believe marriage is a legal status that should be granted only to the union of one man and one woman. I believe that because I also believe the marriage of a man and a woman is the best way to sustain the human race, through the procreation and rearing of children. Therefore, it is in the interest of our society to attach special benefits to the relationship of a man and a woman joined together in marriage. That is why I voted for DOMA, the Defense of Marriage Act, in 1996, and that is why I still support that law today.

DOMA makes absolutely clear that marriage, under Federal law, which is our area of jurisdiction, is a status that should be attainable only by one man and one woman, and that any State's decision to define marriage otherwise has no effect on marriage under Federal law or the laws of other States.

In other words, we already have a Federal law on the books that precludes any couple other than an opposite-sex one from claiming Federal marriage benefits and that prevents one State from seeking to impose its view of marriage on its sister States. A constitutional amendment to that effect is therefore unnecessary at this time.

There is a contemporary reality, however, that this amendment does not allow us the flexibility to recognize. Gay and lesbian couples exist. They are not going away. They also enjoy the rights promised in the Declaration as the endowment of their Creator. To say these couples and their children should be denied any legal protections or relieved of all legal responsibilities would, in my opinion, be unfair and inconsistent with the principles that were at the basis of the founding of our country.

I presume most all of us would agree, for example, that someone should not be excluded from his dying life-partner's hospital room on the ground that their decades-long relationship has no legal status. Probably many of us who have thought about it would not want to see someone who raised her partner's biological children as her own and provided the family's principal means of support be able to simply walk away without any financial obligations to the child if the couple ends their relationship.

I do not profess to know exactly how and in what form these rights and responsibilities should be extended to gay and lesbian couples. Different States are already providing different answers to those difficult and important questions. But I do know this is a discussion and a debate that will and should continue to the benefit of our country.

I understand that some argue that the Constitution's full faith and credit clause makes inevitable that one State's decision to allow gay marriage will lead to gay marriage across the Nation. I respectfully disagree. I believe that DOMA is constitutional, a view I hope is shared by the overwhelming majority of my colleagues who voted for it. If DOMA is declared unconstitutional in the future and the full faith and credit clause found to mandate national recognition of one State's definition of marriage, there will be enough time for those of us who oppose gay marriage to act statutorily or constitutionally.

In sum, this is an unnecessary amendment that wrongly and certainly prematurely deprives States of their traditional ability to define marriage. I plan to cast my vote against it and urge my colleagues to do the same.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I believe under the unanimous consent agreement Senator SANTORUM is to be recognized next. We discussed that. I ask unanimous consent that I be allowed to speak at this time for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I ask the question: Why are we here? The reason we are here is because of court rulings. The Massachusetts decision took effect May 17, just a few weeks ago. That is why we are here today. This is not a matter I had any intention of being engaged in 2 years ago or 6 years ago when I came to the Senate. We are here to protect the rights of legislative bodies in all 50 States to define marriage as they always have. I believe that is appropriate.

Some suggest there is not a real threat to marriage and the courts will

not strike down the traditional definition of marriage. I do not think that is something we can say. As a matter of fact, marriage, as we have traditionally known it, is without any doubt in great jeopardy by the rulings of the courts in America. It has already occurred in Massachusetts.

I would like to show the language of one of the opinions that is relevant in this situation. In the Lawrence v. Texas case, just last year, the U.S. Supreme Court ruled and said this:

In Planned Parenthood of Southeastern Pennsylvania v. Casey, the court reaffirmed the substantive force of the liberty protected by the Due Process Clause.

That is vague language but dangerous language, in my view. They go on to say:

The Casey decision again confirmed that our laws and tradition afford constitutional protection to personal decisions relating to marriage. . . .

And then a little further on in the opinion, they say:

Persons in a homosexual relationship may seek autonomy for these purposes, just as heterosexual persons do.

''For these purposes'' clearly refers back to marriage in the above paragraph.

That is the U.S. Supreme Court. That decision was cited by the Massachusetts Supreme Judicial Court to justify their decision under the equal protection clause. Justice Scalia, in his comments in dissent in this case, said about Lawrence:

Today's opinion dismantles the structure of constitutional law that has permitted a distinction to be made between heterosexual and homosexual unions, insofar as formal recognition in marriage is concerned. . . .

He made clear his view of what that opinion was, and he was in the conference when the judges discussed the opinion when it was decided 6 to 3. They can even lose one judge on the issue and still come down against traditional marriage when a challenge comes before them.

Second, marriage is good, Mr. President. I had a hearing in the Health, Education, Labor, and Pensions Committee. We had a host of excellent witnesses who testified about the strength and importance of marriage. The numbers and science are indisputable.

Barbara Dafoe Whitehead, who wrote one of the most important articles in the second half of the 20th century called ''Dan Quayle was Right,'' testified. She has become an expert on the subject. She said she was at first criticized, and now everybody agrees with her statistics. She gathered them from independent studies around the country. She found this:

On average, married people are happier, healthier, wealthier, enjoy longer lives, and report greater sexual satisfaction than single, divorced or cohabitating individuals.

Married people are less likely to take moral or mortal risks, and are even less inclined to risk-taking when they have children. They have better health habits and receive more regular health care. They are less likely to attempt or to commit suicide. They are also more likely to enjoy close and supportive relationships with their close relatives and to have a wide social support network. They are better equipped to cope with major life crises, such as severe illness, job loss, and extraordinary care needs of sick children or aging parents.

Children experience an estimated 70 percent drop in their household income in the immediate aftermath of divorce and, unless there is a remarriage, their income is still 40 to 45 percent lower 6 years later than for children in intact families.

She goes on and on to discuss those issues.

No reputable scientist today would dispute the fact that although single parents do heroic jobs, and many of them overcome all the statistical numbers.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. SESSIONS. Mr. President, I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I think it is important for us to know that marriage is good, that it is in jeopardy by the courts. The American people have a right to a legitimate constitutional amendment process—not the illegitimate process of courts amending the Constitution—but a legitimate process to amend this Constitution by allowing the States to vote. A constitutional amendment will not become law unless the States vote on it. Why is that not empowering States? Three-fourths of them must do so. I believe this is the right thing.

It has been a good debate, a good discussion. It is not going away. We will be back again and again. This issue will be discussed more. It will become law. We will protect marriage because it is critical to the culture of this country.

I thank the President and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CORNYN. Mr. President, we have additional speakers on our side who are ready, but the practice has been to go back and forth, so we would be glad to allow time for our Democratic colleagues.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I will share a few thoughts on the subject matter at hand. We are shortly going to vote, I believe, on the motion to proceed on the constitutional amendment banning same-sex marriage. I intend to oppose the cloture motion and oppose the underlying constitutional amendment, and I will lay out the reasons why.

First, I believe this constitutional amendment has no place in our founding document because it runs counter to our most sacred constitutional traditions. According to University of Chicago law professor Cass Sunstein, who testified before the Judiciary Committee:

Our constitutional traditions demonstrate that change in the founding document is appropriate on only the most rare occasions—most notably, to correct problems in governmental structure or to expand the category of individual rights. The proposed amendment does not fall into either of these categories.

For example, the first 10 amendments of the Bill of Rights guaranteed such liberties as freedom of speech, assembly, and religion, the protection of private property, and freedom from cruel and unusual punishment.

Other amendments corrected problems in the structure of Government such as limiting the number of terms a President could serve or providing for the direct election of Senators.

In fact, the only time the Federal Constitution was amended not to expand an individual right or to respond to structural concerns was to establish prohibition and then repeal it. That is the only example in the last 228 years.

If the proposed Federal marriage amendment is adopted and we are to deny rather than confer rights upon individuals, I believe it will be a step backward for all Americans concerned with the Constitution and the intended purpose of it. It would be difficult to imagine what our Federal Constitution would look like today if we had adopted constitutional amendments at the rate they are being currently proposed.

I point out that as of June 15, 2004, 61 constitutional amendments have been introduced in this Congress alone. In the last decade, 460 constitutional amendments have been offered. Even more startling is that 11,000 have been offered since the first Congress convened in 1789. That is the bad news. The good news is only 27 of those constitutional amendments have actually been adopted since 1789.

Some of these proposed constitutional amendments were controversial and divisive when proposed, and clearly discredited when viewed through the prism of historical perspective. There have been constitutional amendments to divide the country into four Presidential districts with a President elected from each, renaming the country ''the United States of the World,'' and even allow for the continuance of slavery.

If all of the proposed constitutional amendments were adopted, our founding document would resemble a Christmas tree—a civil and criminal code rather than a constitution—and the United States would be a very different nation indeed.

The Framers therefore had it right when they made the Constitution extremely difficult to amend. It is a process that ought to be very well thought out and extremely deliberate. That is why of the more than 11,000 proposals to amend the Constitution, only 27 have been adopted.

The Constitution was not intended to be subject to the passions and whims of

the moment. It dilutes the meaning of having a constitution in the first place if it is easy to amend, not to mention the fact that a lengthy constitution would be exceedingly difficult to interpret and enforce.

The Federal Constitution was construed to withstand incessant meddling and provide a stable framework of Government in the future. Certainly there must be a major crisis at hand. At the very least, the hurdle must be passed that we face a crisis.

Certainly I am willing to listen to those who say the crisis we face on this issue of same-sex marriage is so compelling that we must do something about it, and the only way we can address this crisis is by amending the Constitution of the United States. In my view, however, there is no crisis. It is a sham argument.

First, there has been no successful challenge to the Defense of Marriage Act, or DOMA. I want to direct the attention of my colleagues to this chart. Courts that have upheld Federal right to same-sex marriage, zero; States forced to recognize out-of-state same-sex marriages, zero; churches forced to perform same-sex marriages, zero; discriminatory amendments to the U.S. Constitution, zero.

Where is the crisis? There is no crisis. This is merely a political issue for some in the majority party who want to raise a question where frankly the problem is nonexistent.

Therefore, I think the issue of a Federal Marriage Amendment is certainly not ripe at all, nor is there a ''crisis'' as some of my colleagues would have us believe.

It is unfortunate that the majority party of the Senate does not share James Madison's view that the Constitution is to be amended ''only for certain great and extraordinary occasions.'' What is ''the great and extraordinary occasion'' that warrants taking this radical action today? The majority party has scheduled votes on two constitutional amendments prior to the August recess. Neither of these amendments, which concern same-sex marriage and the burning of the American flag, falls within our constitutional traditions. They have absolutely nothing to do with expanding individual rights or responding to structural concerns. They have absolutely everything to do with scoring political points before an election.

In addition, there has not been a markup or any consideration of these amendments by the full Judiciary Committee. It is extraordinary that the entire Senate would be considering amending the Constitution without the amendments having gone through the normal legislative process. In fact, of the 19 constitutional amendments considered by the Senate Judiciary Committee since 1978, all but two have been fully debated by the Judiciary Committee. The Senate considered the two that did not go through the Judiciary Committee only by unanimous consent.

Here we are taking the exceptional route of avoiding that process. Most surprisingly, the majority party is paying lip service to its cherished principle of federalism. Since the founding of our Nation, marriage has been the province of the States, and in my view it should continue to be a State issue. Yet the Federal Marriage Amendment would deprive States of their traditional power to define marriage and impose a national definition of marriage on the entire country.

According to Yale professor Lea Brilmayer, States now have wide latitude to refuse recognition of marriages entered into in other States without offending the Full Faith and Credit Clause of the Constitution. She argues that ''entering into a marriage is legally more akin to signing a marriage contract or taking out a driver's license'' as opposed to a judicial judgment, the latter of which is entitled to Full Faith and Credit. Courts have therefore not hesitated to apply local public policy to refuse to recognize marriages entered into in other States.

In addition, 49 out of 50 States allow marriage only between a man and a woman. The one holdout, Massachusetts, is currently working its way through this contentious issue in its State constitutional amendment process. For Congress to step in and dictate to 49 States how they ought to proceed in this matter runs counter to the States rights principles that many hold so dear.

I am hopeful cooler heads will prevail on this issue and the Senate will turn its attention to more pressing concerns. Having been through the process last week of trying to reform the class action system, which we spent only some 48 hours on, we have some 8.2 million out-of-work Americans; 4.5 million Americans working part time because they cannot find a full-time; almost 2 million private sector jobs lost since January of 2001; 35 million Americans living in poverty; 12 million children living in poverty; 25 million Americans who are hungry or on the verge of hunger; 43 million Americans without health insurance.

How about spending a couple of days trying to address one of these issues? And yet here we are consuming the remaining days of this session of Congress on an issue where there is absolutely no crisis.

As I pointed out earlier, looking at this chart once again very quickly, there have been no successful challenges to the Defense of Marriage Act. No court has upheld the Federal right to same-sex marriage. No state is forced to recognize out-of-state same-sex marriages. And no church is forced to perform same-sex marriages.

This issue is not ripe. It is not needed. It is a waste of our time. We ought to be dealing with far more serious issues.

My hope is that my colleagues, when a vote occurs in a few short minutes on cloture, will vote no on cloture. Let's get back to the business of what the Senate ought to be dealing with—namely, the pressing issues that our country needs to address on a daily basis. This is not one of them.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, there is no problem. We are just here because we are playing politics. We are alarmists. There is no problem out there. The Massachusetts Supreme Court didn't rule that the legislature had to change the definition of marriage. The Supreme Court didn't rule last year, for the first time, that we have fundamentally changed how we are going to construe rights with respect to homosexuals and lesbians. No, there is no problem. America, look somewhere else. Don't pay attention to what is going on. Everything will be fine. Just leave it up to us.

Us? Judges. Just leave it up to the judges. The Constitution should not be amended, said the Senator from Connecticut, on the passions and whims of the moment. That is right. What would others like to see happen? They would like to see it amended on the passions and whims of judges because that is what does happen. That is what is happening.

What has changed? The courts have changed. The courts have decided it is now their role to take over the responsibility of passing laws. What has changed? What has changed is that they now create rights and change the Constitution without having to go through this rather cumbersome process known as article V. We actually have to amend it, have to get two-thirds votes, have to get three-quarters of the States. That is what has changed.

We can sit back and deny it. No, everything is fine, zero, zero, zero—I say one, Massachusetts; two courts right now considering whether to overturn the Defense of Marriage Act. None have done it, but the cases were just filed. Why were they just filed? Because the decision was just last year.

Oh, we can wait. We can wait until more and more people enter into these unions in more and more States, after they become adopted. Then we can wait. Then, when we wait long enough, we say: Now we can't take these rights away from people. How can we be discriminatory? People have already invested in these rights.

Let's wait. Let the courts do it for us. Let's go out here and protest that we are for traditional marriage, and then do absolutely nothing, absolutely nothing to make sure it is preserved.

In fact, all but one—Senator KENNEDY said he is for the Massachusetts decision, but I don't know of any other Senator who has come out here and said they are against the traditional definition of marriage. Every other Senator to my knowledge has said they are for the traditional definition of marriage. Yet those of us who are proposing this amendment have been

called divisive, mean-spirited, gay bashing, shameful, notorious, intolerant—I could go on. Wait a minute, don't we all agree on this? Don't we all agree on the definition of marriage? If we all agree on the definition of marriage, and we just have different approaches to solving it, then why, if we all agree on the substance, are those of us proposing the marriage amendment divisive, mean-spirited, gay bashing, et cetera? Why?

Maybe we have to question whether there really is a desire to protect traditional marriage and whether we are just sort of laying back, hoping this issue is taken from us, that the courts will do our dirty work, that the courts will go about the process, which they have been now for the past couple of decades, and simply change the Constitution without the public being heard. That is what this amendment is all about.

Article V says Congress shall propose. We are proposing. We are not passing anything. We are not forcing anything on the States. As to this idea that somehow or another this is against States rights, 38 State legislatures have to approve this amendment for it to become part of the Constitution. This is not forcing anything on the States. This is not an abdication of States rights. This is allowing the States a fighting chance to preserve what every State in the Union says they would like to preserve, and that is the institution of marriage.

The idea, somehow or another, and I know others have talked about this, that James Madison would be against this because ''this is not a great or extraordinary occasion''—I would say the fundamental building block of any society is marriage and the family, and the destruction of that building block is a fairly extraordinary occasion. But even if some do not believe it is, let me refer you to the last amendment to the Constitution, the 27th amendment, which states:

> No law varying the compensation for the services of the Senators and Representatives shall take effect until an election of Representatives shall have intervened.

Members of the Senate and House cannot get pay raises until their election. That was the 27th amendment. That was the great and extraordinary occasion that we amended the Constitution.

By the way, for those who say Madison would surely have opposed that because it is not a great and extraordinary occasion, what was the name of this amendment? The Madison amendment. James Madison proposed this amendment. This is a great and extraordinary occasion.

I would argue, the future of our country hangs in the balance because the future of the American family hangs in the balance. What we are about today is to try to protect something that civilizations for 5,000 years have understood to be the public good. It is a good not just for the men and women involved in the relationship and the forming of that union, which is certainly a positive thing for both men and women, as the Senator from Alabama laid out, but even more important to provide moms and dads for the next generation of our children. Isn't that important? Isn't that the ultimate homeland security, standing up and defending marriage, defending the right for children to have moms and dads, to be raised in a nurturing and loving environment? That is what this debate is all about.

I ask my colleagues who come here and rail against those of us who would simply like to protect children, those of us who would simply like to give them the best chance to survive in a very ugly, hostile, polluted world that we live in—with respect to culture—I would ask them this question: What harm would this amendment do? What harm would it do?

We don't need it; it is not ripe; it is not ready; it is divisive. What harm would an amendment which simply restates the law of every State in the country and protects them from judicial tyranny, what harm would it do? What harm will it do to do something that we know will actually protect the family? This idea that it is not ripe, this idea that it is unnecessary, this idea that it is divisive when all but at least one Member, that I am aware of, only one Member disagrees with the substance of the amendment, that is divisive? I can't think of very many things that happen around here that pass 99 to 1. It is not divisive. It is simply a restatement of what we have held true in this country since its inception and in every civilization in the history of man. What is the reluctance? Is it because this Constitution is so great and so lofty that we dare not amend it? Obviously not.

Then, what is it? Why do we hold back? Why aren't we willing to stand up and say children deserve moms and dads? The people have a right to define for themselves what the family is in America. Let the people speak. Let the people participate in this document. This is the Constitution, and judges should not be rewriting it without the people's consent. That is what article V is all about. That is what this amendment is all about. It is not about hate. It is not about gay bashing. It is not about any of those things. It is simply about doing the right thing for the basic glue that holds society together.

I plead with my colleagues. I know they have given speeches. I know there are lots of pressures out there. Certainly, the popular culture is not supporting those of us who have stood and supported this amendment. But just think about what America will look like, as we have seen in other countries around the world that have changed the definition of marriage, what America will look like with growing numbers of people simply not getting married; growing numbers of children growing up in nonmarried households.

I suggest you look at the neighbors of America where marriage is no longer a social convention, where marriage is no longer something that is expected, particularly of males, and see what the result is in those subcultures, see what the result is, see the role that government and community organizations have to play to save the lives of children, to give them some shred of hope because mom and dad aren't there.

That is the world we are looking at. That is the world that is simply around the corner if we choose to do nothing.

I said last night and I will repeat today—I ask for an additional 1 minute.

Mr. REID. Mr. President, that will be taken off the Republican time; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. SANTORUM. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. SANTORUM. Christopher Lasch says we get up every morning and we tell ourselves little lies so we can live. Today, we have gotten up and we have told ourselves a little lie. Oh, the family is OK. Oh, this isn't right. Oh, whatever the lie is—but sometime or another we are just not going to come around to doing what we say we believe. Somehow or another we will deny what we know is true. We know that marriage between a man and a woman is true and right. It is not discriminatory and divisive. It is simply a fact. It is common sense. Yet somehow, just so we can move on to homeland security or to the next bill, we are going to deceive ourselves into believing that everything will be OK if we just do nothing. Nothing doesn't cut it. Let the people speak.

The PRESIDING OFFICER. Under the previous order, the remaining 30 minutes shall be allocated in the following order: Senator LEAHY, 10 minutes; Senator HATCH, 10 minutes; the Democratic leader, 5 minutes; and the majority leader, 5 minutes.

Mr. REID. Mr. President, Senator DODD has time remaining—5 or 6 minutes. We yield that to Senator LEAHY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I am privileged to represent a State that values families and the tradition of this country as much or more than any State in our Nation. We are the 14th State in the Union. We are a State that values and respects not only our families, but our duties to the rest of the country. In fact, during the current war in Iraq, Vermont has lost on a per capita basis more soldiers than any other State in the country. We are a very special State.

We also have a wonderful constitution, the shortest constitution, I believe, of any State in the Nation. We hold to it as we do the U.S. Constitution. We have provisions in our Vermont State Constitution which

make it very difficult to change, for a reason. It has guided us for well over 200 years, just as our U.S. Constitution has guided the nation as a whole.

When you change the fundamental role of the Federal Government to have it intrude into the lives of our people and into our separate religious institutions, that is wrong. Doing so preemptively, based on the false premise that the U.S. Supreme Court, the Supreme Court of Chief Justice Rehnquist and Justice O'Connor, is going to reach out and require States to approve same-sex marriages, is ill founded. Doing so in order to write discrimination into the Constitution is abhorrent.

Instead of a respectful and deliberative process with respect to the U.S. Constitution, we have something else going on here, something that Senator DURBIN and Senator FEINGOLD and others spoke of yesterday. None of the various proposed constitutional amendments have gone through the traditional process to help the Senate determine whether a proposed amendment is ''necessary,'' as, of course, the Constitution requires. Changing the fundamental charter of our Nation should not be proposed in this haphazard manner.

Everybody here knows that this is a political exercise being carried out on the fly. It shows little respect for the Constitution or the priorities of the American people.

Instead of taking action against terrorism, providing access to prescription drugs at lower prices, improving the criminal justice system, engaging in oversight to get to the bottom of the Iraq prison abuse scandal, providing a real Patients' Bill of Rights against the HMOs, or just fulfilling the basic requirements of the Senate by passing a budget and determining the 12 remaining appropriations bills on which the Senate has yet to act, the Republican leadership in the Senate has frittered away another week, with only 5 weeks left in the session. We have lost another week, but they know on the vote they will not win.

The American people have felt the need to amend the Constitution only 17 times since the adoption of the Bill of Rights. You would not recognize that tradition of restraint in looking at this Congress, in which dozens of proposed amendments to the Constitution have been introduced. The Senate has voted to increase the democratic rights of our citizens on several occasions, but we have only voted once to limit the rights of the American people. That was prohibition. We know that failed, and we had to come back in an embarrassed way and vote to repeal it.

This is a motion to proceed to the third version of the Federal Marriage Amendment that has been introduced in this Congress. Senator DASCHLE and the Democratic leadership offered a fair up-or-down vote on this amendment, but the Republican leaders refused. Instead, they want to have a constitutional convention on the Senate floor, with multiple votes on a variety of versions of constitutional amendments.

Yesterday, the distinguished Senator from Oregon, Mr. SMITH, indicated he was not insisting on a vote on his version of a constitutional amendment. I have not heard the distinguished senior Senator from Utah insist on a separate vote on an alternative version. I really do not understand why the Republican leadership wouldn't agree to an up-or-down vote at a certain time on this amendment, as Senator DASCHLE offered. It almost seems as if the Republican leadership can't take yes for an answer on this procedural matter.

Are we facing crises here in the United States? I suppose that we are, but they are not constitutional crises. They are real-world problems. They have more to do with international terrorism and difficult economic times for America's working families than how the people of the State of Massachusetts will determine how to work out a State constitutional amendment or other approaches to the question of marriage in their State.

No constitutional crisis exists demanding constitutional changes. Look at two of our largest States, California and New York. They have Republican Governors. Their Republican Governors are not asking us to change the Constitution. Many of the Republican Senators in this Chamber know there is not a constitutional crisis, and I commend their courage in opposing this amendment.

I compliment the Log Cabin Republicans for their forthrightness and courage. They are right that marriage is an issue for the States and for our religious institutions within their separate spheres. In fact, they are right that Vice President CHENEY and I agree on this, even though the Vice President is uncharacteristically silent at this moment.

I began this debate last Friday by urging that our Constitution not be politicized. I am saddened to see the proponents of this amendment and those trying to make this an election year issue see nothing as off limits or out of bounds, not even the Constitution. They propose turning the Constitution of the United States from the fundamental charter preserving our freedoms into a kiosk for political bumper stickers. They would reduce it to a device—in their words—to ''stand up against the culture.''

The real conservatives, the conservatives of Vermont and other States—know that conserving the Constitution is among the most important responsibilities we have. Our oath as Senators—an oath I have taken five times, and I can remember each one of them as though it was yesterday—is to ''support and defend the Constitution of the United States.''

Where is the respect for our States here? The Republican-appointed judges in Massachusetts changed their rules on marriage. But Massachusetts can decide for Massachusetts. They can change their constitution. But, of course, what we do here is going to force other States to ignore their own constitution or their own laws. Whether they like it or not, we will tell them what they have to do.

I hear many say Republicans and others on the Massachusetts Supreme Court endangered marriages. If I may be personal for a moment, I have been married for 42 years, to the most wonderful person I have ever known. In my mind, she is the most wonderful wife anyone could have. I sometimes ask myself why she has put up with me for 42 years, but she has. We have three beautiful children, two wonderful daughters-in-law, a wonderful son-in-law, all of whom we love. We were blessed this past weekend with our third grandchild. How wonderful it was to hold her literally minutes after she was born.

Like the former senior Senator from my State, Senator Stafford, I could say that everything I have accomplished in my life that has been worthwhile has been with the help of my wife Marcelle. We do not find our marriage endangered.

I do find a Constitution endangered if we start using it for bumper sticker slogans. That is what we are doing, and we must stop. The Constitution is too great a part of our heritage and our freedoms and our diversity and the democracy we love to tarnish it in this fashion.

When we vote today, we will not be voting to preserve the 42-year marriage of PATRICK and Marcelle Leahy. She and I will not be affected by this vote, but millions of Americans will be. Remember those gay and lesbian Americans across the Nation who are looking to the Senate today to see whether this body is going to brand them as inferiors in our society. Those who vote against cloture recognize the fullness of their worth and their citizenship. I will not vote to diminish other Americans in the Constitution. I urge all Senators to vote ''no.''

I have to wonder what Americans are thinking as they watch the Senate devote its limited time to debate the Federal marriage amendment. Do they think the Nation is in a midst of a crisis that only a constitutional amendment can resolve? Are they pleased that the Senate has turned away from legislation that could improve their daily lives to engage in this debate? I doubt it.

Let me review the current legal landscape in America. Massachusetts is the only State in the Union providing marriage licenses to same-sex couples, and its citizens are in the midst of the State constitutional process to overturn that policy. In addition, Massachusetts has limited same-sex marriage to couples who reside or intend to reside there. Meanwhile, none of the other 49 States has moved to legalize gay marriage during the many months

that have followed the Goodridge decision in Massachusetts.

I think most Americans would agree with me that the sky has not fallen during the 2 months during which same-sex couples have married in Massachusetts. They may support gay marriage, or like me, they may believe that civil unions are the appropriate way to recognize the seriousness of gay and lesbian relationships. Or they may oppose any recognition at all for same-sex couples. But at a fundamental level, they understand that States should have the authority to decide who can marry, and that the relationships being formed between consenting adults in Massachusetts have not harmed their own marriages or their own families.

The Rutland Herald, a Pulitzer Prize-winning newspaper in my State, wrote the following in an editorial last month:

[A] remarkable thing has happened since gay marriages began legally in Massachusetts last month: nothing. Gay and lesbian couples who have trooped to their town clerks or church altars have joined in the most significant relationship of their lives, and it has not been nothing to them. But no cataclysmic shock to society has occurred. Marriages happen as a matter of course, and though they are one of the most significant events in the life of the individual, they are a routine matter in the life of a community. Now gay marriage, too, has become routine, at least in Massachusetts.

As The Rutland Herald suggests, most Americans have not felt any effects from developments in Massachusetts, and many are surely mystified and dismayed by the Senate's fascination with the topic.

So why are we here today? We are certainly not here to legislate. Everyone in this chamber knows the Senate will not adopt this amendment. If you listen to Senator SANTORUM or Senator HATCH, you know they say we are here to ''put people on record,'' apparently including the many Republicans who have expressed reservations about the FMA or oppose it outright.

Obviously, the Senate leadership has decided that forcing a vote in relation to the FMA will benefit the Republican Party politically, from the race for the White House to the Senate races that will determine which party controls the agenda for the 109th Congress.

Ever since President Bush publicly embraced amending the Constitution to ban same-sex marriage, it has been obvious that he considered the issue of gay marriage crucial to his re-election campaign. The President's plan was clear: his right-wing base may have been alienated by his calls for immigration reform or a mission to Mars, but he would win them back by aggressively promoting a marriage amendment. And since the President's opponent is a Member of this body, it was only a matter of time before this amendment reached the floor, regardless of what procedural traditions had to be sidestepped to do it.

Of course, the President has never said what words he wants to be included in the Constitution. His Department of Justice has never testified before the Judiciary Committee of the House or Senate, and has never said what words it believes would be appropriate to include in the Constitution. The President and his administration want the benefit of supporting this discriminatory amendment without getting their hands dirty by delving into the specific and ugly words. This lack of concern about the language of the amendment is of course not limited to the White House. As I stressed in my opening statement, the language of this amendment is rather beside the point for its congressional supporters, too.

The President addressed the issue of gay marriage in his State of the Union address in January. He said, ''If judges insist on forcing their arbitrary will upon the people, the only alternative left to the people would be the constitutional process.'' Yet, on February 24—barely a month after the State of the Union address—and without any additional court anywhere in the country ruling on gay marriage, the President flip-flopped and endorsed putting a ban on gay marriage in the Constitution. I can only assume that something turned up in the White House's polling to prompt such a dramatic about-face. Or perhaps Karl Rove's phone simply would not stop ringing with calls from the hard-right groups that compose the core of the President's support.

In any event, the day after the President endorsed the concept of a constitutional amendment, I wrote him and asked what specific language he wanted us to add to the Constitution. After all, we have only amended the Constitution 17 times since the Bill of Rights. If the President was calling on Congress to amend it for an 18th time, I thought the least he could do is make clear what language he seeks. I have waited in vain for a response.

I am not surprised by the President's conduct in this matter. He has proven himself willing over the last 3½ years to take whatever measures he finds politically expedient. He has also shown that he is more than willing to play political games with the Constitution, as we see with today's debate and we will see again in the upcoming debate on a constitutional amendment to ban flag desecration an issue that Vice President CHENEY has been campaigning on recently. The President, the Vice President, and the rest of the administration have withheld information from Congress and the public whenever it suits them. And facts have proven to be awfully malleable things when they have stood in the way of the President's political priorities. For this administration, it is all politics all the time regardless of the truth or the consequences. Let me provide three of the many possible examples.

When the facts got in the way of the President's prewar statements about Iraq, and Joseph Wilson pointed out the flaws in the President's 2003 State of the Union address concerning Iraq's alleged efforts to obtain uranium in Niger, someone in the Administration apparently told the press that Wilson's wife was an undercover agent at the CIA. The President promised that the perpetrator would be discovered and punished. But if he has made any efforts to discover the leaker's identity, we are unaware of them. Instead, he has retained counsel and allowed the investigation to grind on, perhaps in the hope that the issue will not be resolved until after election day.

When the facts got in the way of the President's proposal to expand Medicare to provide prescription drug benefits, his Department of Health and Human Services simply withheld those facts from Congress. When Congress considered the prescription drugs bill last fall, it received an estimate from the Congressional Budget Office that the cost of implementing the new program would be about $395 billion. It has since come to light that Richard Foster, the chief Medicare actuary, completed a cost estimate for the Bush administration last fall that showed the new prescription drug benefit would cost $550 billion, drastically more than the CBO estimate. In testimony before Congress, Mr. Foster explained that he was told that if he made his cost analysis public, he would be fired. The Congressional Research Service recently reported that it believes the Bush administration violated the law by withholding Mr. Foster's report and stated that it is clear that Congress has the right to receive truthful information from Federal agencies to assist in its legislative functions. It was a breach of trust with this Congress and with the American people.

And in today's papers we learn that there are administration estimates that when the purported prescription drug benefits are supposed to finally kick in around 2006, what is likely to happen is that almost 4 million retirees will, in fact, lose prescription drug benefits. That means that the Bush administration is now withholding its own estimates that one-third of all retirees with employer-sponsored drug coverage will, in fact, suffer more rather than be helped by the bill they forced through the Congress to benefit large insurance and pharmaceutical companies at the expense of our seniors.

Finally, when we in Congress raised legitimate concerns about the administration's policies on the abuse of prisoners abroad and requested documents that would shed light on the administration's policies regarding the treatment and interrogation of detainees, the White House released a small number of self-serving documents and chose to hide the rest. Then it ''disavowed'' the Office of Legal Counsel memo that laid out a strategy for evading the limits of the Torture Convention as if that document, which is legally binding on

the Executive Branch, had been nothing more than the doodling of an overly imaginative young lawyer at the Department of Justice. The administration obviously does not want the Congress or the American people to know the facts about its actions abroad or its slippery commitment to upholding American values.

Let there be no mistake: We are here today because the President wants to distract the American people from the facts of the weakened economy and reduced standing abroad that his administration has produced. He and the Senate Republican leadership prefer a political circus and seek to whip the American people into a frenzy based on the actions of a single State.

I am not so sure their political calculations are correct. I believe the American people regardless of their position on gay marriage—will be disappointed by the majority's overreaching. They will see this debate for what it is—a show produced to benefit Republicans politically while doing nothing to enhance or protect the sanctity of marriage. Senator CHAFEE predicted months ago that his leadership might bring the amendment up ''just for political posturing.'' He has proved prescient.

As I said at the fourth and final hearing the Judiciary Committee held on gay marriage, this debate is not about preserving the sanctity of marriage. It is about preserving a Republican White House and Senate and about doing so by scapegoating gay and lesbian Americans. I oppose this amendment, and I again urge my colleagues to oppose it as well.

This debate perfectly illustrates the Senate's priorities. We are spending days on a Federal marriage amendment that we all know does not have the votes to pass the Senate and that the House may never even put to a vote. I have spoken before about the divisiveness of this debate and the contempt that it shows for our constitutional traditions. This debate, however, also demonstrates the Senate Republican leadership's disregard for the needs of the American people and the institutional responsibilities of this body.

The Senate has been unable to get its own house in order. It is mid-July and we have still not passed a budget. The Senate has passed only one of 13 appropriations bills, and the leadership has suggested they may not be able to find the time to pass the others as individual bills. I do not believe we have ever passed only one appropriations bill in the Senate before the August recess, but we certainly seem to be headed in that direction.

A July 7 editorial in Roll Call lamented what it called the ''Big Mess Ahead.'' We are now stuck in that big mess. Roll Call noted that ''July should be appropriations month in the Senate.'' I agree. July has traditionally been when we got our work done and made sure that funding for the various functions of the Federal Government would be appropriated by the Congress as it exercised its responsibilities and the power of the purse. Not this year.

We have not done our part to help American employers create jobs. We have not completed work on a highway bill that could create 830,000 jobs, or on the FSC–ETI bill, subjecting American businesses to retaliatory tariffs that are increasing monthly. At the same time we have dallied on measures to expand the economy, and we have refused to extend unemployment benefits, even as 2 million Americans have exhausted their unemployment insurance.

We have not addressed the health care needs of our citizens. The majority has refused to take up either a drug reimportation bill that has the support of a majority of Senators, or mental health parity legislation that has 68 sponsors. Meanwhile, the Senate has done nothing to address the fact that 43 million Americans have not had health insurance for more than a year.

We have failed those hardworking Americans who struggle every day to make ends meet on wages that barely reach the poverty line. We have not increased a minimum wage that has remained unchanged since 1996. As inflation has risen and the economy has worsened, the working poor must struggle to live on the same wage Congress passed 8 years ago. The core inflation rate rose 2 percent in the first quarter of this year alone. In addition to allowing the minimum wage to stagnate, the majority has abandoned efforts to reauthorize the welfare reform law, leaving thousands of families in desperate need of quality childcare behind.

We have also failed our veterans. This failure begins at the top. The President has consistently proposed underfunding veterans' programs. His budget request for this year failed to maintain even the current level of services. Secretary of Veterans Affairs Principi recently testified that his department asked the White House for an additional $1.2 billion, but that request was denied. Forced to choose between our veterans and the President, the majority has sided against our veterans.

During consideration of this year's budget resolution, Senator DASCHLE offered an amendment to fund veterans programs at the level recommended by veterans' groups in the Independent Budget. Unfortunately, only one Republican voted in favor of this amendment, and it was defeated. A second amendment, offered by Senator BILL NELSON, would have increased funding for veterans by $1.8 billion. It too was defeated. Not a single Republican supported the Nelson amendment. My friends on the other side of the aisle then offered a ''smoke and mirrors'' amendment on veterans' care. Although this amendment made it seem that the Senate was voting to provide more money for veterans, we all know that this amendment did not add one red cent. The main purpose of this amendment was to provide political cover for the November election.

While the administration is shortchanging VA funding, out-of-pocket expenses for veterans are skyrocketing. Under the Bush administration, these expenses are projected to rise by an incredible 478 percent. Certain Priority 8 veterans are blocked from VA health care altogether, while others cannot receive treatment unless they pay a ridiculously high co-payment. Instead of debating polarizing issues like the Federal marriage amendment, we should be acting to provide real resources for the men and women who served this country with honor.

Unlike in 2000, the Republican majority has not even made the pretense of addressing the priorities of our Nation's immigrants. The majority leader engaged in parliamentary tricks last week to avoid a vote on Senator CRAIG's immigration reform bill and has found no time for the bipartisan DREAM Act, which would help thousands of immigrant students in our Nation. The prospect of comprehensive immigration reform is even more remote.

Sadly, the list of what we are not accomplishing goes on and on. Roll Call observed in its editorial last week that ''the second session of the 108th Congress is poised to accomplish nothing.'' The way things are going, under Republican leadership this session will make the ''do nothing'' Congress against which President Harry Truman ran seem like a legislative juggernaut.

The days we spend on this amendment could be spent more productively on any of the matters I just mentioned, but instead we are debating the FMA. We have followed this course even though there are only 6 weeks remaining in the Senate's scheduled work year.

I fear that at this point in an election year, floor time is only available for matters that advance the majority's narrow political agenda. This is a sad contrast from 1996, when we passed a minimum wage increase, a welfare reform bill, and other matters in a productive summer during which we occasionally put the election aside and took care of business for the American people. I supported some of those initiatives and opposed others, but I believed they were important matters that deserved the Senate's extended attention.

This summer, the Senate seems content to act as an extension of the President's reelection campaign. Why else would we be considering an amendment prompted by gay marriages in Massachusetts, 2 weeks before Democrats convene in Boston for their national convention? In light of all the talk about potential terrorist activity at the political conventions, we should be spending time passing appropriations bills for the Departments of Justice and Homeland Security. Instead,

this Senate will grind to a halt and ignore its pressing duties to conduct a debate whose outcome we all know.

I am not naive. I know that politics has always influenced Congress. It could not be otherwise. I fear, however, that the Republican leadership has taken the politicization of the Senate to new heights. Have we ever taken up a constitutional amendment that did not have the support even of a firm majority of this body, over the objection of the minority party, without even having the Judiciary Committee consider it?

We should reject this amendment and move on to the matters that make a difference in the daily lives of our constituents.

Mr. CORZINE. Mr. President. I wish to discuss, regrettably, the so-called Federal marriage amendment.

Regret is a key word when it comes to this amendment, for several reasons.

It is regrettable that, in this case, the United States Senate is debating an amendment that intends to turn a revered, sacred document into a political weapon.

It is unfortunate that a misinformation campaign about the consequences of this amendment has been waged upon the American public by organizations that want to play politics at the expense of gay and lesbian Americans.

Furthermore, it is regrettable that at a time of challenge and difficulty for our country—when soldiers are at risk abroad, we face threats to face our domestic security, and middle class families continue to get squeezed financially—the United States Senate is not discussing the issues that really affect American families.

The American people are a diverse lot. As I have traveled around this country, I have come to notice the vast differences that mark our Union of States.

I have always seen this diversity as one of our country's strongest points. The Constitution recognizes this as well. The political system in this country has survived for well over 200 years, because it appreciates diversity, and in fact celebrates the variety of cultures, ethnicities and lifestyles that make up America.

Our Constitution guarantees the right to celebrate and vocalize those differences. It enumerates, protects and expands the inalienable rights to life, liberty and pursuit of happiness that Thomas Jefferson had in mind when he penned the Declaration of Independence.

However, the spirit of the Constitution is threatened today by the amendment that is before the United States Senate.

As you know, some people are portraying what is happening on this issue in Massachusetts as a crisis. This is a blatantly political tactic that is used to energize political bases. In an election year, we find such a tactic being used far too often.

Unfortunately, when politics is at play—as it is in this case—good public policy often suffers. That is what we are witnessing today.

Many are trying to set off the crisis alarm by falsely claiming that the entire country will have to recognize gay marriages conducted in Massachusetts. Let me be clear, this assertion is wholly untrue.

The Defense of Marriage Act, passed by Congress in 1996, clearly affirms the individual states' rights to their particular definition of marriage.

Unfortunately, many of my colleagues have come to the floor to ''predict'' that this law will be overturned on constitutional grounds.

This is a hypothetical argument—and a disingenuous one at that—because several of the individuals who are now claiming that DOMA will be found unconstitutional are some of the same people who actively supported the passage of DOMA, and endorsed its constitutionality, almost a decade ago.

The exaggeration of the situation in Massachusetts and empty predictions about DOMA being overturned, are all part of a misinformation campaign being waged on behalf of this amendment.

Another example of this misinformation campaign is the argument that this amendment does not threaten states' rights to recognize gay and lesbian couples through other legal mechanisms, such as civil unions and domestic partnerships.

In reality, it is far from clear that this amendment will not restrict gay and lesbian couples' rights as its supporters claim.

In fact, according to the National League of Cities, the plain language of this amendment will result in the elimination of several rights and benefits that are guaranteed by states and municipalities across the country.

The second sentence of this amendment, as it sits in front of me, reads ''Neither this Constitution nor the constitution of any state, nor state or federal law, shall be construed to require that the marital status or legal incidents thereof be conferred upon unmarried couples or groups.''

What, precisely, is a ''legal incident?'' It doesn't take a legal scholar to understand that this sentence threatens gays' and lesbians' rights to visit each other in the hospital, share health insurance, or inherit each other's property.

To this amendment's drafters, ''legal incident'' may just be empty words. However, we know that every word in the Constitution has meaning.

I am reminded of a couple from New Jersey, to whom a so-called ''legal incident'' is more than just empty words.

This couple was together for 6½ devoted years.

However, their partnership came to a tragic end 6 years ago when one woman, who was pregnant, was killed by a drunk driver.

As their relationship was not legal, the hospital did not contact her partner. They instead contacted the injured woman's parents. However, the injured woman's parents did not approve of the relationship, so they did not call her partner to tell her that her companion was critically injured.

It took a long time before anyone finally called to inform her of her partner's failing condition. She finally arrived at the hospital fifteen minutes before her partner passed away. Because her visitation rights were not protected by law, however, she had no right to see her partner.

This woman was not allowed to see her partner before her untimely death. In fact, she was prevented from moving past the waiting area.

In addition, the injured woman's parents did not inform the doctor that their daughter wanted to be an organ donor, something their daughter had shared with her partner.

They also took all her belongings from the couple's house, some of which had been accumulated together by the couple.

This couple had done all they could under current law to formalize their relationship. They had formalized health care proxies and powers of attorney, but the hospital chose instead to recognize the injured woman's parents and ignore the couple's long term partnership.

These are ''legal incidents'' that are under threat: the right to see one's dying partner in the hospital, the right to make medical decisions for one another, the right to inherit property.

I am proud to note that in my home State of New Jersey, the Governor signed a domestic partnership bill that went into effect this past weekend.

The new law in New Jersey will make sure that such a situation never happens again.

It will ensure that committed gay and lesbian couples will never be stopped from spending their last moments together.

It will ensure that committed couples can make joint financial and health decisions. And committed couples will be able to own and inherit joint property.

However, the constitutional amendment we are considering this week can and will take away the rights protected by New Jersey's domestic partnership laws. Any statements to the contrary represent a fundamental misunderstanding of the vote that members of this body will be making.

If the Senate is to consider the legal status of gay and lesbian Americans, let's have that debate. This body should consider the unique challenges faced by gay and lesbian Americans, rather than toss them around like a political football.

If we are going to talk about strengthening American families, let's have that debate as well. While I have heard a lot of posturing about how this amendment strengthens families, I don't understand how beating up on gay couples accomplishes that.

I do know that families are stronger when our homeland is secure, health

care is affordable and well-paying jobs are plentiful.

New homeland security threats are becoming clearer by the day. Just last week, all Americans were reminded that we are still squarely in the crosshairs of a hidden enemy. A sobering statement from the Department of Homeland Security acknowledged that members of al-Qaida have the intention and capability to carry out a devastating attack within the borders of the United States.

All the while, the homeland security appropriations bill sits and waits. A bill I drafted that would bolster security at chemical plants sits and waits. The assault weapons ban sits and waits.

Health care and tuition costs are going through the roof, but we are not considering meaningful legislation to address these pressing needs for middle class families.

These are the priorities of the American people. Unfortunately, they do not seem to be the priorities of the United States Senate.

Why are we considering this amendment when we all know it is destined to fail? Why are America's economic and security priorities being shelved in favor of empty rhetoric on this amendment?

I wish I had a better response. However, it seems the answer is rooted in the politics of an election year.

This amendment undermines the Constitution, discriminates against gay and lesbian Americans, tramples States' rights, and is distracting this body from the important priorities that our country should be addressing.

I encourage all my colleagues to join me in voting against this amendment so that we may put the United States Senate on the record as resoundingly opposed to using our Nation's constitution as a political weapon.

Mr. CONRAD. Mr. President, over the past several months there has been much debate about the issue of gay marriage. My record as a steadfast supporter of traditional marriage and strong family values is clear and consistent. I believe marriage should be reserved to relationships between a man and a woman.

That is why I voted for the Defense of Marriage Act which became Federal law in 1996. This law gives States the authority to refuse to recognize same-sex marriages performed in other states. North Dakota has already passed laws to make it clear that North Dakota will not recognize same-sex marriages. So have 37 other States.

I strongly support these efforts by States to protect the important institution of marriage. States have historically regulated marriage, and I agree with Vice President CHENEY's statement during the 2000 election that marriage should continue to be left up to the States.

The question before us is not whether we support traditional marriage, as I do. It is not whether we support families and family values, as I do. The question before us is whether an amendment to the Constitution of the United States is necessary and appropriate to address the issue of gay marriage.

I believe the Constitution of the United States is one of the greatest documents in human history. It is the framework and the foundation upon which all of our freedoms as Americans are based. The Founding Fathers deliberately made amending the Constitution a difficult and lengthy process to preserve the integrity of the document and the freedoms it embodies. Congress has amended the Constitution only 27 times in more than 200 years, although more than 10,000 amendments have been proposed.

Throughout my career, I have held the principled position that the Constitution should be amended only when all other legislative and judicial remedies have been exhausted. Because the Defense of Marriage Act is the law of the land and has never been found to have any constitutional problems, I do not believe a constitutional amendment is needed. For that reason, despite my strong support for marriage, I will vote against the proposed constitutional amendment.

Mrs. MURRAY. Mr. President, we are less than 2 weeks away from our summer recess, and we will soon attend our respective parties' conventions. It is important to ask what we have accomplished so far this year. Very little.

We have hundreds of thousands of troops getting shot at in Iraq with no plan in place to stabilize that country.

We have sky-rocketing healthcare costs with no plan in place to help Americans get the healthcare they deserve.

And we have not done our work around the Senate: we have no budget, we have not done our appropriations, and instead of dealing with these real threats to the American people we are taking up the Senate's time on an issue that is not going to create one job, bring one soldier home, educate another child, or get a senior affordable prescription drugs.

So what are we doing? A constitutional amendment to ban States and local governments from extending legal marriage rights, responsibilities and obligations to same-sex couples.

With all the challenges we as a country currently face, this is one of the last things on which the Senate should be working. This is election-year politics pure and simple, in its crassest and worst form.

The proponents of this amendment are trying to rally those who adamantly oppose gay marriage before the fall elections and distract from an inability to deliver on the priorities of the American people.

It takes 67 votes in favor of a constitutional amendment for it to pass the Senate.

There is no expectation it will pass, yet they are stealing valuable work time from the Senate to play election-year politics.

Since this side of the aisle is not in control, we have to take what the majority brings to this floor, so we should address the basic question in this debate, which is, Should we amend the Constitution on this matter?

I say we should not. Our Founding fathers made the constitutional amendment process a difficult one. Two-thirds of both Houses of Congress, along with three-quarters of the State legislatures, must approve an amendment. Although it has never occurred, a convention can also be called by the States to amend the Constitution.

Since adoption of the Bill of Rights in 1791, the Constitution has only been amended 17 times. Our Founders wanted to use this process only in pressing matters that were serious crises impacting our Republic. As a result, in the 203 years since the passage of the Bill of Rights, amending the Constitution has always been used to protect and expand rights, not limit them. One exception was prohibition, but we repealed that amendment 14 years after it was ratified.

So we have used the constitutional amendment process to address real concerns: to establish our Bill of Rights; to end slavery; to grant women the right to vote; and to establish Presidential succession. These were real-world problems. These were issues that needed to be addressed.

The amendment we have in front of us would break with tradition—215 years worth of it—and would restrict liberties and would actually write discrimination into the Constitution. This amendment would restrict the rights not of all Americans but of one specific group. A group to whom this Senate 3 weeks ago extended hate crimes protection to as part of the Department of Defense Authorization bill.

Furthermore, unlike the pressing reasons why we have amended the Constitution in the past, invoking the process in this case is based on a hypothetical. One State—Massachusetts—had a State judicial ruling that their State constitution must allow same-sex marriage.

Again, despite the rhetoric on the other side, these are State judges interpreting state law.

Currently 38 States, including Washington State, prohibit marriage between people of the same sex.

Congress passed, and President Clinton also signed, the Defense of Marriage Act, DOMA, in 1996, which made it clear that on the Federal level marriage is defined between a man and a woman.

At least seven States will also decide this year whether to approve State constitutional amendments banning same-sex marriage.

The national conversation on this issue is still evolving, and we should not move forward with a constitutional change that would stop this discussion dead in its tracks. This is an issue that should be left to the States to decide.

States can choose how they want to define marriage, something they have traditionally done, and DOMA allows one State to reject another State's recognition of same-sex marriage.

There is a law on the books that allows States to do as they see fit. Marriage has always been within a State's jurisdiction. There is no good reason, other than politics, to try to change that.

I thought the proponents of this amendment claim to be strong State's rights advocates.

The hypothetical they have invoked in this process, the supposed constitutional crisis, is that the Supreme Court or a Federal court may rule these State laws or DOMA unconstitutional. That has not happened, nor is there any indication it will happen in the near future.

So here we are, using precious floor time, on a hypothetical. Something on which we have never used the amendment process.

This is no crisis. There is no constitutional problem. So I reject this amendment. We should not be using the amendment process on this issue. We should not be using the Constitution to restrict rights.

What we should be doing is addressing the real issues that impact the lives of Americans.

I urge my colleagues to not support this amendment.

Mr. DORGAN. Mr. President, today the Senate is deciding whether to add an amendment to our United States Constitution that would prohibit same-sex marriages.

I agree that the subject of marriage is an important matter. So, too, is the prospect of amending the United States Constitution.

I also agree with those who say that marriage is an institution that should be reserved for a man and a woman living as a husband and wife. I voted for that position when I supported the Defense of Marriage Act passed by the U.S. Congress in 1996. That is now Federal law and it clearly defines the institution of marriage for our country.

In recent months, there have been some challenges to State laws prohibiting same-sex marriages. In Massachusetts, the State Supreme Court has ruled that the prohibition of same-sex marriages violates that State's constitution. In California, New York, and New Mexico, some have tried to perform same-sex marriages in violation of State law, and authorities have taken legal action to stop same-sex marriages.

As a result, the only State in our country where same-sex marriages are now being performed is Massachusetts. But that State's legislature has begun a process to amend the State's constitution to prohibit same-sex marriages. When that is done, there will be no jurisdiction in America where same-sex marriages will be legal. I believe that the State governments, as has been the case for over two centuries, are resolving this issue in a manner that protects the institution of marriage as one that applies only to men and women united as husband and wife. Because of that, there is no need at this time to amend the United States Constitution.

The U.S. Constitution is the basic framework for the greatest democracy on Earth. Some of my colleagues find it easy to amend it. I don't. There have been over 11,000 proposals to change it over the years, 67 of them introduced in this Congress alone. But in almost 220 years we have only approved seventeen amendments to the Constitution outside of the Bill of Rights.

I am very conservative when it applies to altering our U.S. Constitution. I believe it should be amended only as a last resort. And in this case, the goal of prohibiting same-sex marriage is being achieved without the requirement to amend the U.S. Constitution.

I respect those who differ with my judgment, but I simply cannot believe it is in our country's interest to amend the United States Constitution unless it is the only alternative available to solve a problem that is urgent. The work of Washington, Jefferson, Franklin, Mason, Madison, and others is a document that has given life to the most wonderful place in the world to live. ''We the people'' should dedicate ourselves to protecting that Constitution and the things it stands for. We should not rush to alter the foundation of our democracy.

Mr. ENZI. Mr. President, when the Supreme Court in Massachusetts issued its ruling on marriage it did what no court ought to do. It set itself apart from and above the State and Federal legislatures, and went so far as to order the Massachusetts Legislature to produce a remedy in a time period it knew was unworkable and unfair. Even if the legislature is able to draft a change in the law that is acceptable to the court it will be impossible to bring the issue before the voters to obtain their consent and approval of the legislature's intrusion on the important tradition of marriage.

Regardless of what we may believe about the institution of marriage, the process of amending the Constitution, or the rights of same-sex couples to marry, there is no question that this is not what the Founding Fathers intended when they originally drafted the Constitution and established the principles of separation of powers and the right of the governed to have a voice in the laws that are written to govern them. The amendment we have before us is an attempt to remedy that situation and provide guidance and direction from the people of the States to the courts on this matter.

As we begin our consideration of this issue, we cannot help but frame the argument in terms of our own experience of marriage and our memories of the marriage of our own mother and father.

I was fortunate to have a pair of remarkable parents who worked hard and did everything they could to raise their family with a strong awareness of the principles and values of the time. One of those principles was undoubtedly the bonds that tied them together as man and wife. I know I am not the only one with such memories of growing up, or later, repeating much of the same modeling when we had families of our own. Now, as a grandfather, I am watching the traditions repeat themselves as my son and his wife raise the next generation of our family.

Simply put, that is what this legislation means to me—providing the generations to come with the same kind of advantages I had in my own life. It is not about denying rights to any group—it is about ensuring marriage, and its importance in our society continues to be encouraged and promoted.

As I have listened to the debate, I have heard it said that this is an issue that the States, not Congress, ought to be deciding. I could not agree more that the States need to be heard on this issue. That is why we are pursuing the remedy of a constitutional amendment in this matter. Even if we were to pass this legislation, however, it would still require the consent of three-fourths of the States.

In other words, the debate we begin here will be finished by the States. That way we will ensure that such a radical departure from our traditions and the norm of the institution of marriage will not be changed by the ruling of a court, but by the will of the people who will make their will known through their State legislatures.

One argument that has been raised in opposition to the legislation before us has to do with the rights of same-sex unions as defined by those States that have established civil unions. This bill will do nothing to change or alter that process. The States can continue to establish these programs as determined by the will of the people of the States that produce them.

This line of reasoning tries to obscure the point that a marriage is quite different from a civil union. Marriage is the union of a man and a woman in a partnership aimed at producing children and nurturing their growth and development. It is not about social acceptance, or about economic benefits, or an exercise in civil rights, as some would try to lead us to believe. A civil union, on the other hand, is a legal agreement that establishes a partnership between two people of the same sex to ensure their rights as ''partners'' are preserved in the eyes of the law. A civil union is concerned with matters like the right to an inheritance, retirement, death benefits, health insurance and the like. Marriage is concerned with matters involving the birth and raising of children. That is the main difference between the two. Simply put, life comes from the marriage of a man and a woman. No life can come from a civil union.

Society clearly has an interest in promoting and encouraging marriage

and the life it produces because it is the cornerstone upon which all our institutions are based. The family is also the main building block that helps form the very structure of our society. If all politics is local, you cannot get any more local than protecting and preserving the institution of marriage and the family unit it creates. The family is the basic unit from which neighborhoods are developed and strong communities are created. That is why society must continue to promote marriage and to afford it all the protections it can. Again, marriage is more than just a bond between a man and a woman, it is the basis from which life is created and children become a part of our world.

I have often heard it said that if we do not do a good job of raising our children, nothing else we accomplish during our lives will matter very much. Studies have shown that a child is better prepared for life if that child is raised in a loving, caring environment, with a father and a mother. The bonds that are formed, and the lessons learned about life from mom and dad help a child to understand his or her role in the world. It also helps a child begin to develop relationships with members of the opposite sex. A mother and father serve as role models for a child that help children understand their own role in the world as it shapes their relationships with their peers as they grow up and become adults.

Some may try to respond to those points by promoting the cause of same-sex parents. That argument tries to change the subject because that is not what this legislation is about. It is about protecting the definition of marriage as it was developed and handed down to us for more generations than any of us could count.

If we abandon marriage, we abandon the family. And when we convert marriage into a civil right for the sole purpose of indulging a perceived ''protected sphere of individual sexual autonomy,'' as some courts have tried to do, we abandon hope, not just for ourselves, but especially for future generations. If we lose our connection across the generations that have held marriage dear for so long and, as a result, the hearts of fathers and mothers are no longer turned to their children, and the hearts of children are no longer turned to their fathers and mothers, we will have suffered a great and terrible loss, indeed.

It was just over 10 months ago that I came to the Senate floor to announce the birth of my latest hope for the future, my grandson Trey. I shared my dream of his future and welcomed him into this world of promise and hope and love.

A number of my colleagues, from both sides of the aisle, came to me after that speech and shared with me their own hopes for the future as seen in the pictures of their grandchildren. My conclusion from those conversations is that all moms and dads, grampas and grammas know what it means to have that connection—the ties that bind each generation of each family together.

From where did that connection come? It was taught to us as we learned about families from our own parents and grandparents who took us under their wing and taught us what it means to be a part of a family. Simply put, they led the best way, by example, and what they taught us continues to guide us and direct us today. As I look back on those days I can see that I was their hope for the future, and they were willing to sacrifice today so that I might have a better tomorrow. It would be a tragedy for the courts to take that same opportunity away from me and my grandchildren.

The legislation we are considering today has one goal in mind—to protect the definition of marriage as it was developed and handed down to us from generation to generation. The enactment of this amendment will ensure that we pass that gift on to our children and our children's children, just as we received it.

Mr. NELSON of Nebraska. Mr. President, I address the issue that has been before the Senate for the past several days, the proposed amendment to the U.S. Constitution with regard to marriage.

Let me be clear. I support the definition of marriage as a union between a man and a woman. I fully support the concept of marriage as a sacred and solemn social institution. I support the Nebraska constitutional amendment on marriage and I support the Federal law defending marriage. But, I am not convinced we need a Federal constitutional amendment on this issue at this time.

As a former Governor, I am intimately familiar with instances where the Federal Government, Congress in particular, has interfered with the rights of States to govern. There are countless unfunded and underfunded federal mandates passed along to the States without the dollars to back them. There are tax laws and regulations that supersede state law. This is not what our Founding Fathers intended.

Thomas Jefferson, Founding Father and American President, fiercely defended the rights of States and believed that the States had the right to govern themselves on matters that were not directly authorized as the jurisdiction of the Federal Government by the U.S. Constitution.

I was pleased to see the good Senator from Arizona, Mr. MCCAIN, come to the floor to express his concerns about this amendment. I echo his sentiments by also quoting from the Federalist Paper 45, in which James Madison wrote ''the powers delegated by the proposed Constitution to the Federal Government, are few and defined. Those which are to remain in the State Governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation and foreign commerce; with which last the power of taxation will for the most part be connected. The powers reserved to the several States will extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people, and the internal order, improvement and prosperity of the State.''

I agree. Amending the U.S. Constitution, the document most sacred to those who love freedom and liberty, is a delicate endeavor and should be done only on the basis of the most clear and convincing evidence that a proposed amendment is necessary.

Proponents of this amendment predict activism in the Federal courts will result in the overturning of State constitutional amendments like Nebraska. I share that concern, but at this time there has been no court action overturning a State law on this matter and I remain unconvinced that this threat meets the level of urgency required for a Federal constitutional amendment at this time.

However, I plan to closely monitor the Federal courts and if evidence of judicial activism on this issue arises, I reserve the right to revisit this issue and reconsider a Federal constitutional amendment.

To the supporters of the amendment I say that I am in agreement with you; I am on your side of this issue. I have been contacted by several thousand Nebraskans over recent days, on both sides of the issue. I know that this issue sparks an emotional reaction in most. I appreciate hearing from constituents on this issue.

Senators are pressured by many and on various issues. Since coming to the Senate I have only felt the pressure to do what is right. In this case, the infringement on States rights is paramount. Until the rights of States are overruled by the courts, I believe that opposing this constitutional amendment at this time is the right thing to do.

Mr. DOMENICI. Mr. President. I rise today in strong support of S.J. Res. 40, the Federal marriage amendment. Unfortunately, because some are unwilling to address the actual amendment, we are instead holding a cloture vote on the motion to proceed to the amendment.

I have said it many times before, but I believe it is worth repeating: I do not take amending the United States Constitution lightly. This issue was forced upon the United States Congress, however, by a number of recent events.

The most visible, and disturbing event, was the decision by the activist Massachusetts Supreme Court in which they created a right not found in the State constitution or in State law. This is not the only event that has forced us to consider the drastic step of amending the Constitution. As you may know, we recently had a situation in my home State of New Mexico in which who defines marriage was made very real.

A county clerk in New Mexico decided that she would take matters into her own hands by issuing marriage licenses to same-sex couples. She did this despite the fact that neither the New Mexico Constitution nor New Mexico statutes recognize same-sex marriage. Put another way, the people of New Mexico, as represented by the New Mexico State Legislature, have not chosen to recognize same-sex marriage.

Instead, we risk a situation like that which took place in Massachusetts, where an activist court legislated from the bench. I am hopeful that the New Mexico courts will not follow the activist Massachusetts court, but it is not a certainty.

The Federal marriage amendment that we are considering today would ensure that the state legislatures, as elected representatives of the people entrusted with the legislative powers, get to decide. It is also important to remember: from a procedural standpoint, passage of a constitutional amendment by the Senate and the House of Representatives is only the first step.

When an amendment passes both Chambers with at least two-thirds of the membership present voting for passage, it is sent to the States for ratification. Then three-fourths of the State legislatures must ratify an amendment before it becomes part of the United States Constitution. This means that the States, through the elected representatives of the people, get two different chances to decide the issue.

I believe our Founding Fathers were particularly brilliant both in providing a mechanism by which the Constitution can be amended and in ensuring that it is difficult to do. Unfortunately, I am convinced the actions of a few nonlegislators have put us in the position where we must use the process of amending the Constitution.

Therefore, I will vote in favor of cloture so the Senate can have the opportunity to vote to send this amendment to the States so the State legislatures can act on behalf of the American people in deciding whether to ratify this amendment.

Mr. LEVIN. Mr. President, the Constitution is a document that should only be amended with great caution. This is one of those moments when we would be wise to submit the strong feelings on this issue to careful deliberation.

Unfortunately, proponents have chosen to do otherwise. The language we are debating was introduced less than 4 months ago. It is not clear what text we would even be voting on. The proposed language changes almost daily, like the weather. The amendment was not voted on by the committee of jurisdiction and we do not have the benefit of a committee report laying out the pros and cons of the amendment.

For purposes of comparison, the Congressional Research Service looked at constitutional amendments originating in the Senate over the last 40 years. Since 1963, 691 constitutional amendments have originated in the Senate. Including cloture votes, only 19 of these measures were voted on in the Senate. According to CRS, only four times in those 40 years has a constitutional amendment that originated in the Senate been debated in the Senate without first being reported by the Judiciary Committee. And of those four times, only the amendment providing Congress the power to limit campaign expenditures, versions of which were considered by the full Senate in the 100th, 105th, and 107th Congresses, came to the floor without earlier amendments on the same subject having been reported by the Senate Judiciary Committee. And that amendment was not adopted. The amendment we are currently debating has received less consideration than any constitutional amendment originating in and voted on in the Senate in at least the last 40 years, with the possible exception of one which was defeated.

In 1979, a constitutional amendment providing for the direct election of the President and Vice President was brought directly to the Senate floor. Senator Thurmond, then ranking member of the Judiciary Committee, protested the tactic, saying ''The Judiciary Committee is the proper machinery for referral of this resolution. It is set up under our rules for considering a measure of this kind. It should be utilized and should not be sidestepped as it attempted to do here with this procedure.'' He was joined by the then ranking member of the Subcommittee on the Constitution, Senator HATCH, who said ''To bypass the committee is, I think, to denigrate the committee process, especially when an amendment to the Constitution of the United States of America, the most important document in the history of the Nation, is involved.''

Senators Thurmond and HATCH's efforts to encourage thoughtful consideration were successful and the amendment was referred with unanimous consent to the Judiciary Committee for its consideration. Our consideration of the pending amendment would also benefit from such a process.

One purpose of the pending amendment is stated to be to protect one State from imposing its view of marriage on other States. But this debate is taking place before the courts have even had the chance to determine the constitutionality of the Defense of Marriage Act, which almost all of us voted for, which says that ''No State . . . shall be required to give effect to any public act, record, or judicial proceeding or any other State . . . respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State . . . or a right or claim arising from such relationship.'' Defense of Marriage Act defines ''marriage'' as ''only a legal union between one man and one woman as husband and wife.''

Even though the Defense of Marriage Act has yet to be tested in court, some proponents of the pending amendment have claimed the act will be ruled unconstitutional and that the full faith and credit clause of the Constitution will force States opposed to same-sex marriages to recognize same-sex marriages established in other States. However, many experts disagree.

In her testimony before the Senate Judiciary Committee in March, Professor R. Lea Brilmayer, a Yale Law School expert on the full faith and credit clause, cited the Supreme Court in Pacific Employers Insurance Company v. Industrial Accident Commission, 1939: ''We think the conclusion is unavoidable that the full faith and credit clause does not require one state to substitute for its own statute, applicable to persons and events within it, the conflicting statute of another state, even though that statute is of controlling force in the courts of the state of its enactment . . .'' Professor Brilmayer testified that less formal legal instruments, such as marriage licenses, have been ''entitled to less recognition even than legislation'' and that ''marriages entered into in one state have never been constitutionally entitled to automatic recognition in other states.''

Amending the Constitution should be a measure of last resort. The Defense of Marriage Act should be tested in court before a constitutional amendment is considered, the purpose of which is to achieve the purpose of the statute.

In addition, the language of S.J. Res. 40 itself contains a host of problems. The amendment reads, ''Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.''

Not surprisingly, given the lack of deliberation, there appear to be differences of opinion on what the amendment provides.

Some have argued that the amendment's language relative to ''legal incidents'' of marriage does not ban civil unions or the extension of other rights to same-sex couples. But here is what Professor Cass Sunstein, a leading constitutional scholar at the University of Chicago Law School, has to say:

> What is meant by ''the legal incidents thereof''? Does this provision ban civil unions? Does it forbid States from allowing people in same-sex relationships to have the (spousal) right to visit their partners in hospitals? Does it bear on rules governing insurance? At first glance, the term ''legal incidents thereof'' appears to forbid States from making cautious steps in the direction of permitting civil unions. And does the word ''require'' include ''permit''? Or consider the recent Allard amendment, which says that neither the federal Constitution nor any state Constitution shall be construed to require that marriage or ''the legal incidents thereof'' must be ''conferred'' on same-sex marriages. The most serious difficulty is that the words ''legal incidents thereof'' raise the same questions about civil unions and spousal benefits and privileges.

For all these reasons, I will vote no.

Mr. BYRD. Mr. President, today the Senate faces a cloture vote which we should never have faced. We have been put in this position by a majority leadership that is toying with the faith and the trust of people across this country. I share their faith, and I share their belief in the sanctity of marriage. I am very disappointed that we have a procedural vote, instead of a vote in direct consideration of a constitutional amendment. What these people want is a vote, up or down; what they are going to get is more rigamarole in this Senate. The majority party is manipulating the faith of many Americans, with the unwitting aid of many well-meaning religious leaders, which is one of the most disappointing aspects of this issue.

The majority party does not expect to win this cloture vote. In fact, the majority party likely does not want to win this cloture vote. The White House and the Republican leadership want to campaign on the fact that Democrats blocked this amendment, that Democrats somehow oppose marriage. How ludicrous. Yet, the Republican leadership will try to capitalize on this procedural vote with fundraising letters, campaign stops, and election-day votes. It is an abomination, an absolute failure of trust, to hatch such calculated political schemes on those Americans who genuinely believe in this issue.

The majority party wants this cloture motion to fail. I, for one, will not help in that effort. I will not help to manipulate the churches and the pulpits across this country. I will call that bluff, and vote for cloture on the motion to proceed.

While I strongly support, and will continue to staunchly defend, efforts to strengthen and preserve marriage in our society, I oppose amending the U.S. Constitution based on the resolution that is before this Senate. The resolution is rife with contradictions and ambiguities that would, with certainty, lead to nothing but confusion and endless litigation in the future. I had hoped that the Senate would have been given the opportunity to debate and to vote clearly, yes or no, on that proposal, and not cloud the debate with procedural votes that few outside of this Capitol understand.

We are in a phase in this country's history that seems to tend toward the belief that cultural conflict, deep wrenching questions about right and wrong, should be fodder for political games. That view is high folly when the legislative vehicle is the Constitution of these United States. As much as I sympathize with the deep personal and religious convictions of those who revere the institution of marriage, we must not start down the road of using our national charter to win political or culture wars. Such a course could lead to the unraveling of individual freedoms and eventually could leave our Constitution in tatters and disrepute—making our beloved Federal charter the most tragic and dramatic victim of the fierce, unprincipled, political conflicts that rage in our land today.

Mr. JOHNSON. Mr. President, I rise today to join the bipartisan majority in this Senate in opposition to the motion to proceed to S.J. Res. 40, the Federal marriage amendment, to the United States Constitution. I strongly support, and have voted for, Federal legislation that defines marriage as a union between a man and a woman; however, there is no need at this time to take the extraordinary step of amending our Constitution. Since 1996, Federal law has allowed the respective States to refuse to recognize another State's gay marriage laws, and it also expresses the congressional view that the institution of marriage should be limited to a union between a man and a woman.

I have recently been contacted by a great many religious organizations, including the Evangelical Lutheran Church of America, ELCA, my own denomination, as well as the Alliance of Baptists, the Episcopal Church, the Presbyterian Church, and the United Church of Christ, among others, asking me to oppose this proposed constitutional amendment. While I do not ''take orders'' from any religious group, including my own, this does confirm that my opposition to this amendment is consistent with the views of millions of devout Christians throughout South Dakota and America.

Further, because Senate Majority Leader BILL FRIST was unable to secure any consensus behind the specific language of any one marriage amendment, he will not allow the Senate to take a direct up-or-down vote on a marriage amendment. I commend Senator TOM DASCHLE for asking for a direct vote on this matter. However, Senator FRIST objected, and now we find ourselves in an incredible situation where Senator FRIST wants the Senate to vote on a wide range of possible amendments which could profoundly impact the Constitution. If this motion to proceed prevails, we would have endless amendments offered to the Constitution on any topic under the sun. That is utterly irresponsible, and I will have nothing to do with helping to pass Senator FRIST's motion to proceed.

Lastly, I take issue with the timing of this debate. After this vote we will have a mere 26 legislative days left in the 108th Congress. Currently, 9 of the 13 appropriations bills have not even received committee approval. Only two of those bills have passed the full Appropriations Committee and only one has passed the full Senate. Time is short. Knowing that this amendment will not even be voted on, and that the motion to proceed will be defeated by bipartisan opposition, there are significantly more important matters this body should be attending to. I am enclosing a relevant editorial on this issue from the highly respected New York Times.

There are real problems facing our Nation—job losses, health care, education, senior citizen challenges and agricultural issues among them. Yet the Senate has spent days debating an amendment that even Senator FRIST concedes will not come even close to passage. This is a politically inspired amendment—one that has not even been considered by the Senate Judiciary Committee. The American people deserve better than this mockery of a legislative process.

I ask unanimous consent to print the above-referenced editorial in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 14, 2004]

POLITICKING ON MARRIAGE

It is heartening to see that the Republicans who had hoped to score political points today by holding a Senate vote on adding a ban on same-sex marriage to the Constitution have run into unexpectedly broad resistance across the ideological spectrum. Liberals and moderates opposed to writing bigotry into the Constitution are being joined by a growing number of conservatives who see nothing conservative about federalizing marriage law or turning America's most essential legal document into an election-year football. With support for the amendment now well below the necessary 67 senators, the calls to put it to a vote just before the Democratic National Convention are nothing more than divisive politics. The Senate should let the Federal Marriage Amendment die a quite death.

Early in the election season, Republicans seized on gay marriage as a promising cultural issue to use against Democrats. Republicans have been working hard to put referendums against gay marriage on individual state ballots to draw religious conservatives to the polls in November. In Washington, Congressional Republicans have been eager to schedule a vote on the Federal Marriage Amendment to force Democrats—particularly Senators John Kerry and John Edwards, who oppose both gay marriage and the amendment—to take a public stand.

One great surprise of this campaign, however, has been just how little traction the issue is getting. Polls show that even many voters who oppose gay marriage do not favor the drastic step of amending the Constitution to prohibit it. And most Americans have the good sense to realize that, whatever their feelings about same-sex marriage, issues like the economy and the war in Iraq matter much more. When President Bush campaigned recently in Ohio, where conservatives are trying to put a gay-marriage ban on the ballot, he was greeted by a newspaper advertisement taken out by a gay-rights group that said: ''Jobs lost in Ohio since 2001: 255,000; gay marriages in Ohio: 0. Focus on Americans' real priorities, Mr. President.''

Even many conservative Republicans, it turns out, do not favor a constitutional amendment. In Washington State, George Nethercutt, the conservative Republican congressman running against Senator Patty Murray, has joined Ms. Murray in opposing it. Lynne Cheney, the vice president's wife and a leading cultural conservative in her own right, said recently that states should take the lead in deciding issues relating to marriage.

Now it appears that the Federal Marriage Amendment may not have the support of a Senate majority, much less the two-thirds that constitutional amendments need. Since

the effort appears futile, backers of the amendment seem to be trifling with the issue simply to rally their base. The Constitution, the embodiment of American democracy, deserves better than that.

Mr. LAUTENBERG. Mr. President, I rise to ensure that all voices are heard in the debate over the proposed amendment to the U.S. Constitution on the issue of marriage. I have received compelling correspondence from Gay, Lesbian and Bisexual Local Officials, GLBLO—a caucus of the National League of Cities—the full text of which deserves to be included in Senate consideration of this issue.

Mr. President, I ask unanimous consent that a copy of the letter from the Gay, Lesbian and Bisexual Local Officials, GLBLO, board of directors be printed in the RECORD.

JULY 14, 2004.

DEAR UNITED STATES SENATOR: On behalf of the Gay, Lesbian and Bisexual Local Officials (GLBLO) Board of Directors and members, a caucus of the National League of Cities working to influence federal policy and municipal relations, we are writing to urge you to vote ''NO'' on S.J. Res. 30 and S.J. Res. 40, respectively, a proposed constitutional amendment to ban same-sex marriage. We are also asking for a vote against ''cloture'' so that the Senate may engage in a full debate of the issue.

The first sentence of the ''Federal Marriage Amendment'' provides, ''Marriage in the United States shall consist only of the union of a man and woman.'' GLBLO is opposed to the federal preemption of states to determine marriage. The 10th Amendment of the Constitution clearly confers upon states the authority to determine marriage. The federal intrusion into the state's authority to define marriage is unnecessary. Unfortunately, this proposed preemptive language would also reverse the constitutional tradition of expanding and protecting individual liberties.

Second, GLBLO is opposed to the wording of the second sentence of the proposed amendment which would prohibit the federal government and states from conferring ''the legal incidents'' of marriage on unmarried couples. The proposed language could have the far-reaching negative effect preempting state and local laws, as well as private businesses that provide benefits to the partners of their employees. This is particularly troubling given the fact that neither the Senate Subcommittee on the Constitution nor the Senate Judiciary Committee vetted the impact of the language. The Constitution of the United States deserves more careful consideration by the Senate, especially when the proposed amendment would break from the traditional historical civil rights practice of allowing stronger state laws.

In closing, we ask the Senate to redirect its energies to address the priorities of the nation's cities—such as homeland security, transportation reauthorization, and full funding of social service programs, before taking this historical step of eroding the role of state governments in protecting same-sex and unmarried couples in their states.

Sincerely,

GREG PETTIS,
*Mayor Pro Tem, Cathedral City, California, At-Large Board Member, Gay, Lesbian, and Bisexual Local Elected Officials (GLBLO).*

RAND HAGLUND,
*Councilmember, Brooklyn Park, Minnesota, At-Large Board Member, Gay, Lesbian and Bisexual Local Elected Officials (GLBLO).*

Ms. COLLINS. Mr. President, I rise to speak on S.J. Res. 40, the Federal Marriage Amendment to the Constitution. Let me begin my remarks by plainly stating my position on the issues raised by this amendment.

First, it is my strong personal belief that marriage is between a man and a woman. Second, principles of federalism dictate that the right and the responsibility to define marriage belong to the States. Third, the proper role of the Federal Government is to ensure that each State can exercise that right and responsibility by preventing, as the Defense of Marriage Act does, one State from imposing its view on others.

The amendment under consideration would potentially affect two types of relationships that are fundamental to our society. The first is the union between a man and a woman. The second is the compact between the States and the Federal Government. In our zeal to protect the former, we must not do unnecessary violence to the latter, as it is the bedrock of our country's unique and highly successful Federal system.

We also must not overreact to the decision of a single court in a single State by rushing to amend the Constitution and stripping away from our states a power they have exercised, wisely for the most part, for more than 200 years. Let us remember that no State legislature has sanctioned same-sex marriage. Nor has there been a popular referendum to that effect in any State. Indeed, this amendment is a response to a single court decision—and a 4–3 decision at that. If just one judge on the Massachusetts court had a different view of this issue, we would not be contemplating the dramatic action of amending the Constitution.

Put differently, where is the evidence that we cannot trust the States in this area? More than 40 States have enacted laws or Constitutional amendments that expressly limit marriage to the union of one man and one woman. Maine law explicitly states that ''[p]ersons of the same sex may not contract marriage,'' and further provides that Maine will not recognize marriages performed in other jurisdictions that would violate the legal requirements in Maine. Thus, even if lawfully performed in another State, a same-sex marriage will not be valid in Maine.

In short, I respect the right of the people of Maine and the citizens of other States to define marriage within their boundaries. Were I a member of the Maine legislature, I would vote in favor of a law limiting marriage to the union of one man and one woman.

This does not mean that Congress can play no role in this area. To the contrary, Congress has two very important roles. The first is to protect the right of each State to define marriage within its own borders, and the second is to define marriage for Federal purposes.

To its credit, Congress did both of these when it enacted the Defense of Marriage Act, or DOMA, in 1996. Signed into law by President Clinton, DOMA enjoyed broad, bipartisan support in both chambers of Congress, passing by a margin of 85–14 in the Senate and 342–67 in the House. The statute grants individual states autonomy in deciding how to recognize marriages and other unions within their borders, and ensures that no State can compel another to recognize marriages of same-sex couples. Of equal importance, DOMA defines marriage for Federal purposes as ''the legal union between one man and one woman as husband and wife.'' I strongly endorse both of the principles codified by DOMA, and should legislation come before the Senate reaffirming DOMA, I would vote without reservation to support it.

Even though DOMA has not been successfully challenged during the 8 years since its enactment, many supporters of the Federal marriage amendment point to the Supreme Court's recent decision in Lawrence v. Texas as presaging DOMA's ultimate demise on Constitutional grounds. They argue that DOMA's vulnerability necessitates approving the amendment under consideration.

I reject that argument for two reasons. First, the conclusion that DOMA is inevitably destined to die a Constitutional death is inconsistent with language in the Lawrence decision. In striking down a Texas statute criminalizing certain private sexual acts between consenting adult homosexuals, the majority opinion written by Justice Kennedy was careful to note that the case before the Court:

> . . . does not involve whether the government must give formal recognition to any relationship that homosexual persons seek to enter.

In her concurring opinion, Justice O'Connor was even more explicit when she observed that the invalidation of the Texas statute:

> . . . does not mean that other laws distinguishing between heterosexuals and homosexuals would similarly fail. . . .Unlike the moral disapproval of same-sex relations—the asserted state interest in this case—other reasons exist to promote the institution of marriage beyond mere moral disapproval of an excluded group.

These statements persuade me that the Supreme Court is, in fact, unlikely to strike down DOMA.

Second, even if DOMA is eventually invalidated, the answer is not to abandon our principles of federalism but rather to enshrine them in the Constitution. Thus, if we ultimately have to address this matter as a Constitutional issue, and we should do so only as a last resort, it should not be to strip the States of the right to define marriage but rather to expressly validate a role they have been playing for more than 2 centuries.

Let me end where I began. This amendment is not just about relationships between men and women but also about the relationship between the States and the Federal Government. I would not let a one-vote majority opinion of a single state court lead us to ascribe to Washington a power that rightfully belongs to the states. To the contrary, our role should be to safeguard the ability of each State to exercise that power within its own borders.

Mr. CRAIG. Mr. President, I rise in support of Senate Joint Resolution 40, the Federal Marriage Amendment. The Judiciary Committee, on which I serve, has held four hearings on the Federal Marriage Amendment. In addition, other committees have held three more hearings on the FMA. We have heard substantial and compelling testimony on the importance of traditional marriage. The time has come for this body to act. Marriage is an institution cultures have endorsed and promoted for thousands of years. It is important for us to stand up now and protect traditional marriage which is under attack by a few unelected judges and litigious activists.

Last year, the Supreme Judicial Court in Massachusetts announced the Massachusetts State Constitution requires the state to grant marriage licenses to same-sex couples. Through their activism, the court ignored the will of the people and created a new state constitutional right. This violation of the democratic process calls for a response.

I have special sympathy for the plight of the people of Massachusetts, because I see courts deciding cases wrongly on an all-too-frequent basis. Of the cases appealed and decided from the Ninth Circuit Court of Appeals this term, the circuit with jurisdiction over Idaho, the U.S. Supreme Court has overturned 15 while affirming 9. Judicial activism of the type we see in Massachusetts is not new, but this is a uniquely deep cut to the heart of society. We need to pass the Federal Marriage Amendment to restore the people to their proper and constitutional role as the only sovereign in our great nation.

I am cautious about amending the U.S. Constitution. It has served us well for more than two centuries, and I expect it to last for centuries to come. One reason it endures is its resilience in the face of changing times, thanks in large part to its amendability. We have seen fit to amend our Constitution 27 times on 17 different occasions. Each of these has addressed an issue of importance to the people. Marriage too, is an important issue to the people.

Some opponents speak of this proposed amendment as an attempt to take rights away. That is neither the purpose nor effect of S.J. Res. 40. Amending our Constitution is the way the people can correct the courts when the courts get an issue wrong. For instance, the states ratified the Thirteenth Amendment 7 short years after the Dred Scott v. Sanford decision by the U.S. Supreme Court, righting the wrong of slavery that had been perpetuated by the courts.

The amendments to our Constitution blaze a clear trail extending the people's right of self determination. The Fifteenth, Nineteenth, and Twenty-Sixth Amendments all extended the franchise to new groups. Yet what good is the franchise, if that voice falls on deaf ears because a few activist judges choose to replace the will of the people with their own? Though I am cautious about amending our Constitution, preserving the sovereign right of the people warrants an amendment and our support.

My colleagues have eloquently set forth many good reasons to support the FMA and I will reiterate only one. We need to pass this amendment for the sake of children. Marriage encourages people to organize in the way that is best for those who may issue from, or enter into, that relationship, according to researchers studying family structures for raising children. This amendment does not criticize or undermine other kinds of families, but it acknowledges society's interest in promoting traditional marriage as the environment for child rearing.

There are several reasons I support this amendment at this time. No fewer than 42 States have defined marriage as being between one man and one woman. This amendment to the U.S. Constitution is the only way to keep this issue in the hands of the people and their elected representatives. This amendment allows the citizens of each state to establish systems to recognize same-sex relationships if they so choose, walking the appropriate line through federalism and separation of powers.

My colleagues and I did not choose the time for this debate. The judicial activists of the Massachusetts Supreme Judicial Court have brought this issue to a head. Passing S.J. Res. 40 will give the people and the states the ability to protect children, bolster traditional marriage as a social building block, and preserve the role of the people as the sovereign in our political system. I encourage my colleagues to also support S.J. Res. 40.

Mr. SPECTER. Mr. President, I seek recognition today to discuss my vote and views on the Federal marriage amendment. I am voting in favor of cloture on the motion to proceed to this amendment. I do so primarily to ensure that our debate on this mater be concluded and that we return our attention to the other pressing issues of the day, including the announcement by Homeland Security Secretary Tom Ridge that it is anticipated that al-Qaida will attack the U.S. again before the next election. We in this Chamber must grapple with many very serious issues including national security, terrorism, the economy, and our appropriations bills. It is time to return to this important work.

Voting for cloture to cut off debate means only that we take up the substance of the amendment to conclude the Senate's consideration of the matter. While the cloture vote is only procedural, I do want to address the merits of the amendment.

When the Supreme Judicial Court of Massachusetts upheld same-sex marriage earlier this year, I stated that I believed marriage was a sacred institution between a man and a woman, as evidenced by my vote in favor of the Defense of Marriage Act in 1996. At that time, I further stated that I thought that Massachusetts would amend its State constitution, which was the basis for the Massachusetts decision, that the full faith and credit clause did not apply, and that the Federal Defense of Marriage Act trumped State court decisions. I added that if the States could not uphold the sanctity of marriage between a man and a woman, I would consider a U.S. constitutional amendment. That continues to be my position today.

Both the Federal Defense of Marriage Act and the Federal marriage amendment seek to preserve the traditional definition of marriage as the union between one man and one woman. Yet amending the Constitution raises a number of issues that were not raised by legislation. All of us in this body must pause and ask ourselves whether the problem before us necessitates this extra and most serious step.

As a matter of traditional and sound constitutional doctrine, an amendment to the Constitution should be the last resort when all other measures have proved inadequate. In Federalist No. 43, James Madison warned ''against the extreme facility'' of constitutional amendment ''which would render the Constitution too mutable.'' In Federalist No. 49, Madison returned to this theme, noting that amendments to the Constitution should be reserved for ''certain great and extraordinary occasions.''

Madison's caution has been carefully followed throughout American history. To date, 11,212 resolutions to amend the Constitution have been introduced in Congress. Yet the Constitution has been amended only 27 times.

In testimony before the Senate Judiciary Committee last March, Professor Cass Sunstein of the University of Chicago Law School noted that all but two of these 27 amendments fall into two traditional categories. Most amendments to the Constitution have expanded individual rights. In this category fall the first 10 amendments—the Bill of Rights—as well as the post-Civil War amendments and the amendments extending the right to vote to women and lowering the voting age to 18. The rest of the amendments have remedied problems in the structure of government itself, such as clarifying the functioning of the Electoral College, establishing the popular election of Senators, creating the income tax, and placing term limits on our Presidents.

To date, only two amendments have fallen outside of these two categories of expanding individual rights and fixing structural problems. The first such amendment was the eighteenth amendment, which prohibited the manufacture or sale of ''intoxicating liquors'' in America. The second amendment to fall outside of the two traditional categories was the twenty-first amendment, which repealed the eighteenth amendment and ended prohibition.

As this history illustrates, when the Constitution is amended to incorporate the majority's position on the controversial issues of the day—and not to expand rights or fix a structural problem—the results do not withstand the test of time. We all must bear this in mind whenever we contemplate amending our Constitution. The Senate, after all, is intended to be the saucer that cools the tea, the necessary fence between the passions of the day and our Constitution and laws. We must pause where others would rush in.

We are having this debate on the Federal marriage amendment today because on November 18, 2003, Massachusetts' Supreme Judicial Court decided in the case of Goodridge v. Department of Public Health that same sex couples have the right to marry. In determining whether this court's recognition of same-sex marriage is one of the ''great and extraordinary occasions'' that warrants an amendment to our Constitution, we must at the outset consider whether there are other, lesser alternatives to deal with the issue. If lesser alternatives will work, then we clearly should not tinker with our Constitution. If, however, we cannot preserve the sanctity of marriage between a man and a woman by other means, then an amendment to the U.S. Constitution may very well be necessary.

Before we even look to the Federal Government for a solution, we must first evaluate whether the States themselves have the power to stop same-sex marriages. The fact is that those States in which there have been same-sex marriages have already mobilized to stop them. The Massachusetts legislature has already passed an amendment to the Massachusetts State Constitution prohibiting same-sex marriage. This amendment must be passed a second time in 2006, and then approved by the voters, before it is finally ratified. But few doubt the eventual outcome.

Some may argue that waiting until 2006 to stop same-sex marriage in Massachusetts is simply too long. Yet it is clearly simpler, more direct, and faster to deal with this issue by amending one State constitution than by amending the U.S. Constitution. To enact an amendment to the U.S. Constitution, three-quarters of the States—38 States—must ratify the amendment after two-thirds passage by the Senate and the House of Representatives. The average time of ratification is approximately 2 years, with some amendments taking as long as 3 years until ratification.

When a couple of cities outside of Massachusetts recently sought to recognize same-sex marriages, the State courts have moved in quickly and effectively to stop them. In February, 2004, Gavin Newsom, the mayor of San Francisco, permitted his city to issue marriage licenses to same-sex couples. The California Supreme Court issued an injunction ordering San Francisco to stop issuing these marriage licenses. Also in February, 2004, Jason West, the mayor of New Paltz, NY, conducted a number of same-sex marriages without licenses. The New York State Supreme Court issued an injunction ordering Mayor West to stop performing these ceremonies.

The fact is that most States in the Union have already taken some action to prevent same-sex marriage. Even before the Goodridge decision in Massachusetts, 38 States had passed laws similar to DOMA which define marriage as a union between a man and a woman and refuse to honor same-sex marriages from other States. Three States—Alaska, Nebraska and Nevada— had ratified constitutional amendments banning same-sex marriage.

Since the Goodridge decision, 21 States have taken additional action to prohibit same-sex marriage, by strengthening prior prohibitions or enacting new ones: Seven State legislatures have adopted legislation that, if approved by the people in a referendum, would amend the State constitution to prohibit same-sex marriages; three State legislatures have adopted similar constitutional language which must be re-approved in a subsequent legislative session before being placed on the ballot; six States have citizen-initiated ballot measures to change the State constitution to prohibit same-sex marriage; and five States have adopted legislation that declares or reaffirms that same-sex marriages will not be honored in the State.

Thus the States are moving effectively to preclude same-sex marriages. Even if a state fails to stop same-sex marriage, however, it is important to remember that there is a second line of defense: the remaining States of the Union would not have to recognize such marriages. In 1996, Congress enacted, and President Clinton signed, the Defense of Marriage Act, DOMA. DOMA defines marriage as a legal union between one man and one woman and specifically provides that:

> No State. . . shall be required to give effect to any public act, record or judicial proceeding of any other State. . . respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State. . . or a right or claim arising from such relationship.

DOMA is good law. In fact, to date no significant challenge to the constitutionality of DOMA has been filed. No civil rights group or national advocate of same-sex marriage has sought to challenge this law in court. Those challenges that have been filed to date have been localized, individual efforts. It has been reported that a private practitioner in Florida has recently filed a case challenging the constitutionality of DOMA in the District Court in Miami. It has also been reported that DOMA has been challenged in connection with a case in bankruptcy court in Washington State where the defendant is representing herself.

Thus DOMA appears poised to remain the law of the land. Even if DOMA were one day found to be unconstitutional, however, the full faith and credit clause would not obligate States to recognize out-of-State same-sex marriages. The full faith and credit clause applies to ''public Acts, Records, and judicial Proceedings.'' 28 USC 1738, which elaborates on the items to be accorded full faith and credit, specifies ''acts of the legislature,'' and ''the records and judicial proceedings of any court.'' Marriage is neither an act of the legislature nor a ''judicial proceeding.''

Traditionally, States have not been bound to recognize marriages if, a, they have a significant relationship with the people being married, and, b, the marriage at issue violates a strongly held public policy. For example, section 283 of the Second Restatement of Conflict of Laws provides that a marriage will be valid everywhere so long as it is valid in the State where it was performed, ''unless it violates the strong public policy of another State which had the most significant relationship to the spouses and the marriage at the time of the marriage.''

On this basis, States have refused to recognize the marriage of a person who has recently divorced without an intervening waiting period when such marriage violates their public policy. Other States have refused to recognize marriages between certain types of relatives, even though they were legal in the State in which they were preformed. There is no Supreme Court ruling to the effect that the refusal to recognize marriages from other States on public policy grounds violates the full faith and credit clause.

On this state of the record, it is premature to consider altering the Constitution, the most successful organic document in history which has preserved and enshrined the values of our Nation. If the States cannot preserve the sanctity of marriage between a man and a woman, I would consider an amendment to the U.S. Constitution.

Mr. MCCONNELL. Mr. President, I support S.J. Res. 40, the Federal marriage amendment. The Constitution provides the basic framework under which our society will function. With its profound implications for the ordering of society, and especially the upbringing of children, the proper meaning of marriage is no less important and deserving of protection than other basic principles protected by the Constitution.

Two decades of modern social science have arrived at the conclusion borne out by at least two millennia of human experience: that family structure matters for children and hence for society, and the family structure that helps children the most is a family headed by a mom and a dad. There is thus value for children in promoting strong, stable marriages between biological parents.

A bare majority of judges in one State, however, recently ignored the sincere and well-formed beliefs of their fellow citizens on this issue and have redefined the ages-old meaning of marriage for their State. In the process, these judges gave short shrift to the State's rational interest in wanting to encourage traditional marriage to ensure the optimum environment for children, terming the people's belief in traditional marriage as ''rooted in persistent prejudices.''

In our highly mobile and inter-connected society, these judges' redefinition of marriage risks the reordering of that institution for the rest of us. And these judges are not alone. There are currently more than 35 lawsuits in 11 States challenging State and Federal Defense of Marriage Acts and State constitutional provisions that protect the institution of marriage as it has always been known. By comparison, just a year ago, there were only five such cases.

The question, then, is whether the American people, through the democratic process, will be allowed to continue to encourage and formally sanction this ideal family structure—the union of one man and one woman—to the exclusion of other relationships that adults may choose to enter into. The issue of whether our Nation will continue under this time-tested societal order is thus before us. It is an issue not of our own making, and its timing is not of our choosing.

Just a few years ago, it was beyond dispute that the American people had both the right and the capacity to define marriage. Our constitutional structure does not leave all the important questions to the courts with the people and their elected representatives relegated to dealing with the mundane and the trivial.

Nor is this question—''What is marriage?''—something only judges are smart enough to decide. As lawyers, jurists are not experts in theology or religion or sociology. While they are entitled to express their wishes on matters like the meaning of marriage, they should do so at the ballot box, just like everyone else. Their failure to do so shows both a disdain and a distrust for the views of the people.

Opponents of this measure show a similar distrust, although they articulate other reasons for opposing it. First, they say the issue of marriage does not rise to a level of importance worthy of amending the Constitution. Really? We last amended the Constitution in 1992 with the 27th amendment, which had to do with pay raises for Members of Congress. Are we saying that pay raises for Representatives and Senators is more important than our most basic societal institution?

The experience of the countries that have departed from the marriage tradition, like Sweden, Norway, and Denmark, demonstrates the risks in failing to protect traditional marriage. According to Stanley Kurtz, a research fellow at the Hoover Institution, the onset of gay marriage in these countries has not simply accelerated a decline in the number of traditional marriages; rather, it has accelerated an abandonment of the institution itself, with the attendant problems of increased family dissolution rates and out-of-wedlock births.

Norway and Sweden instituted de facto gay marriage in 1993 and 1994, respectively. Between 1990 and 2000, Norway's out-of-wedlock birthrate rose from 39 to 50 percent, while Sweden's rose from 47 to 55 percent. Thus, most children in Norway and Sweden are now born out-of-wedlock. In addition, Denmark has seen a 25 percent increase in cohabiting couples with children since the advent of de facto gay marriage in 1989. In fact, 60 percent of first-born children in Denmark now have unmarried parents. Mr. Kurtz reports that the Netherlands has also had a steady increase in out-of-wedlock births since its adoption of registered partnerships and then gay marriage within the last 7 years.

If these statistics were not troubling enough, studies show that cohabiting couples with children break up at two to three times the rate of married parents. Thus, since the marital union is a bulwark against family dissolution, an increase in cohabitation and unmarried parenting will result in increased family dissolution.

The ultimate victims when that occurs are children, who suffer deep emotional pain, ill health, depression, anxiety, even shortened life spans. More of these children drop out of school, less go to college, and they earn less income, develop more addictions to alcohol and drugs, and engage in increased violence—or suffer it—within their homes.

The problems posed by a reordering of marriage are grave. So opponents of this measure are sorely mistaken when they assert that preserving traditional marriage is a subject that is not worthy of our time.

Second, opponents of the proposal contend that this issue is not ripe for our consideration. But the amendment process takes time, and with the onset of gay marriage in Massachusetts and the flurry of legal challenges to traditional marriage laws across the country, those who seek to protect the institution need not wait until the last possible moment to do so.

Lastly, opponents of S.J. Res. 40 argue that the meaning of marriage is a matter left to the several States. But if the past predilections of judges on important social issues are any guide, the people of the States won't be given this chance, just as they were denied it in Massachusetts. And even if they were allowed to decide, would we really want a country with a patchwork of meanings on so fundamental an institution as marriage?

The best process for answering this question is the constitutional amendment process. It is the closest thing we have to a national referendum, as any proposed amendment ultimately must be approved by three-fourths of State legislatures—the democratic institutions that are closest to the people.

In closing, Mr. President, to let four lawyers on the Massachusetts Supreme Court decide the meaning of marriage for the rest of the Nation is profoundly undemocratic. The Allard amendment allows the people to decide if they want to continue with our long-standing understanding of marriage, while allowing the States, as they often are, to be the laboratories of experiment in deciding whether and how to officially sanction other relationships. I believe the lessons from Scandinavia counsel against experimenting with marriage though. I believe the American people will agree with me. But if nothing else, they deserve a chance to be heard.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Utah has 10 minutes, the Senator from Vermont has 4 minutes 46 seconds, and each of the leaders has 5 minutes.

Mr. HATCH. Mr. President, we have heard that this amendment has been compared to prohibition, kiosks, and bumper stickers. We have heard some eloquent and passionate speeches in the Senate these past few days. It is obviously an issue many feel strongly about. I make a couple of things clear before we vote on whether we can even debate this amendment postcloture.

First, the proponents of this amendment are not seeking a policy change. We are simply trying to preserve more than a 5,000-year-old institution, the most fundamental in all of our society, that a few unelected, activist judges are trying to radically change.

Some of my colleagues suggest we do not need a national policy on marriage. Guess what. We have always had one. When my home State of Utah wanted to enter into this great Union, the Federal Government conditioned such acceptance on our adoption of a one-man, one-woman marriage policy. The Federal Government understood then what we still know today, that children are best off having a mother and a father.

Most of my colleagues agree. Some argue it does not belong in the Constitution. The Constitution properly deals with foundational questions of how our Nation should be organized.

Traditional male-female marriage is the universal arrangement for the ordering of society and ensuring future

generations. If a foundational institution such as this is not deserving of our protection in our Constitution, then I don't know what is.

There are others who agree on preserving traditional marriage and agree an amendment may be necessary at some point in the future. We do not need to wait. Judges have already sanctioned marriage licenses for same-gender couples and those couples have spread to 46 States. Folks, marriage has already been amended by the Massachusetts Supreme Court.

Some of my colleagues say the Defense of Marriage Act will contain the spread to other States, but we know this is a flimsy shield, at best. There are multiple actions pending against it now and legal scholars across the political spectrum agree it is only a matter of time—not if, or when—the Defense of Marriage Act will be struck down.

We should be wary of those who argued back in 1996 that the Defense of Marriage Act was unconstitutional and now are hiding behind this act to argue against the need for a constitutional amendment. Members simply cannot have it both ways. If Members believe a marriage should be between a man and a woman and Members believe the Federal Defense of Marriage Act is unconstitutional, then they should support the Federal marriage amendment.

We know from other countries that have undermined marriage the way the Massachusetts Supreme Court did that a message is sent to everyone that marriage is not important. Fewer couples get married, out-of-wedlock births skyrocket. We do not need to wait for these disastrous results to happen to our country.

We have the chance to send the message here that marriage and family do matter. This is not an irrational fear derived from an extreme religious agenda, as my colleague from Vermont, Senator JEFFORDS, suggested yesterday. We know from the benefit of experience in Scandinavia, Denmark, and elsewhere, what happens. Everyone in society benefits when we strengthen the family.

As far as I am concerned, this debate has been a triumph for democracy. We have debated these issues. I, for one, have learned quite a bit from listening to my colleagues. I hope the American people have, as well.

I urge my colleagues to vote yes on the motion to proceed. If there is a way to improve the language, the only way we can do so is to vote for cloture and have a real debate rather than the filibuster we are putting up with.

I make it clear nobody wants to discriminate against gays. Simply put, we want to preserve traditional marriage. Gays have a right to live the way they want. But they should not have the right to change the definition of traditional marriage. That is where we draw the line.

I compliment people on both sides of the debate for at least debating as much as we can, but it would be far better to vote cloture and have a full-fledged debate on this amendment. If it needs to be changed or modified, or if it can be made better, both sides then will have an opportunity to try and amend it.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oregon.

Who yields time?

Mr. HATCH. I yield the remainder of my time to the distinguished Senator from Oregon.

Mr. SMITH. Mr. President, the majority leader asked I take a few moments perhaps even of his time to offer some closing remarks on this important debate.

I believe he asked me to do this because I have been a Republican Senator since the beginning of my service in this Chamber who has been an advocate for gay rights. I have been an advocate for gay rights while still believing the right to defend traditional marriage.

Because of that, I was drawn with interest to an editorial of the New York Times back on April 2, 2004. It frankly reflected many of my feelings. It noted in the editorial:

> The American Enterprise Institute, a conservative research and advocacy group, has been collecting poll results on gay issues going back three decades. The numbers document a profound change in attitudes, most strikingly on employment issues but also in areas like adoption rights, legal benefits and acceptance of gay relations.

The Times goes on to note, however:

> There are lots of theories to explain these more tolerant attitudes. Our own guess is that as more and more gays have acknowledged their sexual orientation, straight Americans have come to see that gays are not deviants to be feared, but valued friends, neighbors, and colleagues, who are not much different from anyone else.

I believe that, too. The Times then notes:

> Sadly, the poll data shows little easing of opposition to gay marriages in recent years, with roughly three-fifths or more of the public still opposed.

Everyone has their own theory as to why the American people remain opposed.

I would offer my theory as this: In the inner recesses of the American conscience, I think the American people understand that when we tinker with the most basic institution that governs relationships of men and women, we are tinkering with the foundations of our culture, our civilization, our Nation, and our future.

I think the American people understand what the great Roman Senator Cicero, a pagan, once described to the Roman Senate: that marriage is the first bond of society.

I think many of my colleagues have come with very interesting reasons for their positions on these votes. One of them is States rights. I say this respectfully—and I include myself in the accusation—we all invoke States rights when it serves our political ends.

My concern, however, is this: that by standing behind States rights on this issue, they are just standing aside while their States rights get rolled.

Make no mistake, our Constitution is being amended. The question is, by whom? Should it be done by a few liberal elites? Should it be done by four judges in Massachusetts? Should it be done by a few rogue mayors around the country, or by clandestine county commissioners, without public notice or public meeting, changing hundreds of years of State law and centuries of human practice?

I think many would argue reasonably that ripeness is an issue. Is it time for us to begin this debate and have this vote? I would suggest, whether it is ripe now, if I am right as to what the Federal courts will do—specifically, the Ninth Circuit that governs my State—I believe it will eventually come to every Senator to answer this basic question, and it is this; Shall marriage in the United States consist only of the union of a man and a woman? Today, I answer yes. It is just on a procedural vote, but the substance of my vote is yes. It is yes because I believe marriage, as traditionally practiced, is an ideal worth preserving. However imperfectly practiced, it is perfect in principle. And it is perfect in principle because it involves more than just consenting adults. It involves the creation of children and their natural nurture and rearing.

I believe in the United States, boys and girls still need the ideals of moms and dads.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator's time has expired.

The minority leader is recognized.

Mr. DASCHLE. Madam President, as so many of my colleagues have stated on the floor over the course of the last couple of days, marriage is a sacred union between a man and a woman. That is what the vast majority of Americans believe. It is what South Dakotans believe. It is what I believe.

In South Dakota, we have never had a same-sex marriage, and won't have any. It is prohibited by South Dakota law, as it is now in 38 other States. There is no confusion. There is no ambiguity. As others have noted, in 1996, Congress passed the Defense of Marriage Act. It defines marriage as a union between a man and a woman. It protects States from any actions taken by another State that could in any way undermine the law of their State.

What is overlooked by many is that it has never been challenged in court successfully—not once. It is the law of the land. It has been now for 8 years, and it has not once been challenged successfully.

The question then is, Is there some urgent need now, absent even one successful challenge to the Defense of Marriage Act, for us to amend the U.S. Constitution?

We have differences of opinion about the legal necessity, but there can be no difference of opinion with regard to how extraordinary a step that is. In 217

years, we have amended that sacred document only 17 times, although there have been 11,000 separate attempts. Madam President, 11,000 amendments have been offered; and 67 amendments are pending right now here in the 108th Congress to amend the Constitution of the United States.

Given all the facts, given the reality of the constitutional strength of the Defense of Marriage Act, the answer to the question, Is it now time to amend the Constitution, is no. This fundamental responsibility lies with the States. It has for two centuries.

Now, some of our Republican colleagues wish to usurp the 200-year-old power of the States to create their own laws, including those in South Dakota.

Last night, the distinguished Senator from Arizona came to the Senate floor and talked about that very issue. Here is what he said:

The constitutional amendment we are debating today strikes me as antithetical in every way to the core philosophy of Republicans. It usurps from the States a fundamental authority they have always possessed, and imposes a Federal remedy for a problem that most States do not believe confronts them, and which they feel capable of resolving should it confront them . . . according to local standards and customs.

Madam President, he is right. We are sworn, every time we are elected, to protect, uphold, and defend the Constitution. It is the backbone of our Republic. That means insulating it at times like this from political condition or motivation. It means amending it only after careful and exhaustive deliberation, not 2 days on this Senate floor with an amendment that did not even come through the Judiciary Committee. That is our solemn responsibility. We have not met that test today, not by a mile. Senator MCCAIN is right. We should oppose this amendment today.

I yield the floor and yield back all of the Democratic time.

The PRESIDING OFFICER. The majority leader is recognized for 5 minutes.

Mr. FRIST. Madam President, since Friday, we have had a good and productive debate about marriage, the bedrock of our society. I applaud my colleagues on both sides of the aisle for the civil discussion, for the judicious discussion we have had.

The issue, very appropriately, has been elevated to this body as representatives of the American people. The issue is being clearly defined. And the fundamental issue is, Do we let four activist judges from Massachusetts define marriage, the bedrock of our society, or do we let the American people? Do we listen to their voices through their elected representatives?

We come, in a few moments, to a vote. And the question before us, in terms of the vote is, Should we consider a constitutional amendment to protect marriage as the union of a husband and a wife. If 60 Senators vote yea, we will begin to debate the specifics of the constitutional amendment. Not everyone is going to agree with every single word or every sentence of the amendment that is before us, but by voting yes today, you are agreeing that the amendment deserves to be debated, and possibly amended. If you vote no, you are saying the Senate should not even consider an amendment to protect marriage as the union between a man and a woman.

We did not ask for this debate, and we would gladly sort of wish it away and say other people can take care of it, but four activist judges on the Massachusetts Supreme Court legalized same-sex marriage on May 17. That is where the debate began, and that is why we act today.

It has become clear to legal scholars on the left and on the right that same-sex marriage will be exported to all 50 States. The question is no longer whether the Constitution will be amended; the only question is, who will amend it and how it will be amended. Will activist judges, not elected by the American people, destroy the institution of marriage or will the people protect marriage as the best way to raise children?

My vote is with the people, and thus, as majority leader, I felt and continue to feel that it is important that discussion and debate go on on the floor of the U.S. Senate which does represent the American people. Americans understand that children need mothers and need fathers. We would be foolish to permit a vast, untested social experiment on families and children to occur, untested on that institution of marriage, the bedrock, the cornerstone of our society.

I recognize that amending the Constitution is a serious matter. Again and again, people have asked why we are addressing marriage on the Senate floor or talking about changing the Constitution. It is a serious matter, and we should do not do it lightly. That is, indeed, why we should debate the issue. It was the 27th amendment to the Constitution that addressed regulating salaries, how much Members of Congress are paid; thus, it is not too much to ask that the 28th amendment be about protecting marriage and children. Do we let four activist judges define marriage for our society or do we let the American people decide? I implore my colleagues, let the Senate debate the best way to protect marriage. Let us proceed to a civil and substantive debate, but let the debate on the amendment begin. I urge my colleagues to vote yea.

I yield the floor and yield back all the time on our side.

The PRESIDING OFFICER. All time is yielded back.

Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 620, S. J. Res. 40, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

Bill Frist, Orrin Hatch, Jim Talent, Wayne Allard, Mike Crapo, Mitch McConnell, Jeff Sessions, Larry Craig, John Cornyn, Craig Thomas, James Inhofe, Richard Shelby, Conrad Burns, Sam Brownback, George Allen, Robert F. Bennett, Elizabeth Dole.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S.J. Res. 40, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 50, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—48

| | | |
|---|---|---|
| Alexander | Dole | McConnell |
| Allard | Domenici | Miller |
| Allen | Ensign | Murkowski |
| Bennett | Enzi | Nelson (NE) |
| Bond | Fitzgerald | Nickles |
| Brownback | Frist | Roberts |
| Bunning | Graham (SC) | Santorum |
| Burns | Grassley | Sessions |
| Byrd | Gregg | Shelby |
| Chambliss | Hagel | Smith |
| Cochran | Hatch | Specter |
| Coleman | Hutchison | Stevens |
| Cornyn | Inhofe | Talent |
| Craig | Kyl | Thomas |
| Crapo | Lott | Voinovich |
| DeWine | Lugar | Warner |

NAYS—50

| | | |
|---|---|---|
| Akaka | Dodd | Lieberman |
| Baucus | Dorgan | Lincoln |
| Bayh | Durbin | McCain |
| Biden | Feingold | Mikulski |
| Bingaman | Feinstein | Murray |
| Boxer | Graham (FL) | Nelson (FL) |
| Breaux | Harkin | Pryor |
| Campbell | Hollings | Reed |
| Cantwell | Inouye | Reid |
| Carper | Jeffords | Rockefeller |
| Chafee | Johnson | Sarbanes |
| Clinton | Kennedy | Schumer |
| Collins | Kohl | Snowe |
| Conrad | Landrieu | Stabenow |
| Corzine | Lautenberg | Sununu |
| Daschle | Leahy | Wyden |
| Dayton | Levin | |

NOT VOTING—2

| | |
|---|---|
| Edwards | Kerry |

The PRESIDING OFFICER. On this question, the yeas are 48, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. REID. Mr. President, on the last vote, as I recall, there was no motion to reconsider.

The PRESIDING OFFICER. That is correct.

Mr. REID. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. DURBIN. I thank the Chair.

(The remarks of Mr. DURBIN pertaining to the introduction of S. 2652 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from New Hampshire.

PENDING SENATE BUSINESS

Mr. GREGG. Mr. President, I rise today to talk about some of the issues which are pending before this Senate which are not being considered because the other side of the aisle refuses to take them up. I am going to stay on narrow issues which have not received a lot of public attention.

Obviously, there have been a lot of issues such as medical malpractice, such as the just recent decision not to go forward with the debate on the constitutional amendment, that have received a fair amount of visibility as a result of the obstruction coming from the other side and the other side deciding it does not wish to address those issues, which are quite often critical to the American people. There have, however, been four items reported out of the committee which I have the good fortune to chair, the Health, Education, Labor and Pension Committee. It is a committee of fairly disparate views—to be kind. I chair it. I have as my honorable colleague on the other side of the aisle, Senator KENNEDY from Massachusetts. To say that we have a philosophical identity would be an imaginative view.

As we go down the membership of the committee, the differences of opinions relative to philosophy of governance are rather significant. We have some of the best Members of the Senate—obviously, there are many good Members there—but we have some of our most aggressive and constructive Members serving as members of the committee, and I enjoy that. It makes the committee an interesting and challenging place in which to work. But the views are different within that committee, the views of how we approach governance.

Therefore, when we as a committee reach an agreement on something, it means it is a pretty good work product. It means there has been a consensus reached the way consensus should be reached within the Congress, which is that the different parties have sat down, they have recognized the problem, they have brought to bear their philosophies on that problem, their ideologies on that problem, and the practical nature of the way that you can resolve that problem, and they have reached what is, in most instances, a pretty good, commonsense solution to how we should move forward.

In four areas right now pending before this Senate, the committee has reached consensus. It has had a unanimous vote on a piece of legislation. Some of those have even come to the floor. We have had a unanimous vote, for example, on how we should reauthorize and restructure the special education laws of this country. It was called IDEA. It is a very complex issue, a very important issue, especially to children or parents of children who have special needs.

I can't think of anything more important than a parent who has a child who has some unfortunate issues relative to their ability to learn. For that parent and for that child, the most important event of each day is going to school and making sure that child's schooling experience is a positive one, and that it moves that child forward as that child tries to deal with the issues of learning and especially issues of life.

So the special education bill is a critical piece of legislation. It went through our committee with unanimous support. It came to the floor of the Senate. It was debated, debated aggressively, and passed. But it simply sits.

A second bill has been stopped because the other side of the aisle has refused to allow us to appoint conferees. The second bill which falls in the same area is the Work Investment Act. This is basically a bill which came out of our committee again in a unanimous way, worked on primarily by Senator ENZI of Wyoming. He did a great job on it and worked across the aisle with a number of Senators. As a result, it was unanimously passed out of our committee, came across the floor of the Senate, and again this bill has been stopped because conferees have not been appointed.

Then reported out of our committee as another very important piece of legislation relative to education is the Head Start bill. Head Start affects a lot of kids in this country today. It gives low-income kids in our country a nurturing environment during those very formative years and allows them an environment where they get decent health care and they get decent custodial care during the daytime. They have daycare services, and it teaches them socialization patterns. We have taken that concept and we have added to it an education, academic component so the kids going to Head Start will now also come out of the Head Start program after they are 3 or 4 years old moving into kindergarten and preschool. They will hopefully be up to par with their peers academically so they know their alphabet and are ready to learn.

This is an important initiative. This bill is structured to put that new component into Head Start and make that part of that initiative.

Again, this bill came out of our committee unanimously. It came to the Senate and has stopped—stopped. We negotiated to try to get it brought up in reasonable ways, one of which would allow us to give both sides amendments if they wanted them and then move it to conference. No, it hasn't happened, so that bill has been stopped.

The fourth bill which I want to talk about is the Patients Savings Act. We know that there is a problem, unfortunately, in our health care community with mistakes—unintended mistakes, but mistakes—that end up causing people harm because health care is delivered inappropriately or incorrectly to people. In fact, the estimate is that literally tens of thousands—potentially more than 100,000 people—die each year as a result of that type of situation.

One of the ways to address that is to allow the medical community to communicate with each other as to what these problems are so they can learn from each other and so we can set up a regime where if somebody has a system in place which avoids a problem, a mistake or an error occurring, they can share that with other medical providers. If there is, on the other hand, a mistake that has occurred or error that has occurred, the information relative to the investigation of that and how it can be mitigated can be shared with other providers. This sharing of information is absolutely critical if we are going to get control over the issue of how we deliver better health care in this country. Unfortunately, there are antitrust and other laws which limit the ability of that information to be shared. So we have set up this Patients Safety Act which is essentially an attempt to give patients more protection when they are in a health care facility.

This bill again was worked on effectively and aggressively by both sides of the aisle. The thoughts and initiatives were brought together. It was passed out of committee unanimously. This is a very important piece of legislation. We need to get this piece of legislation in place. Unlike the other pieces of legislation which I mentioned—the WIA bill, the IDEA bill, and the Head Start

bill, which already have programs up and running, which are effective, but can be improved significantly by those bills—in the case of patient safety there is nothing out there today which allows these medical providers to take advantage of what this law is going to bring to bear and thus reduce injuries to people. Literally, the longer this bill is kept from passing and becoming law, the more people are harmed. There is a direct numerical relationship, direct formula, direct factor relationship where if this bill were passed today, fewer people would be harmed tomorrow. It is that simple.

This bill needs to be taken up. It needs to be passed. Yet although it came out of committee unanimously, it has disappeared into the opposition on the other side of the aisle which says we are not going to listen to that. We are not going to bring that up. If you want to pass something such as that, you will have to throw on everything else and the kitchen sink that has no relationship to it. You are not going to be allowed to pass a bill that was unanimously passed out of committee.

A couple of days ago, I was reading a pamphlet which was sent to me by an ever inquisitive and creative and very unique individual in his energy level, which is much higher than mine, the President pro tempore, Senator STEVENS. He had go to some lecture or some meeting where they had been talking about quantum physics. He sent us a booklet on quantum physics. I have never understood even the term ''quantum physics.'' I opened it to the first page and read the first paragraph. I quickly got lost in the theory. But the basic statement about quantum physics was that the universe is 96 percent anti-matter. Maybe it is 98 percent. The universe—and this is a shock. This is a new theory. The universe is 98 percent anti-matter or, in other words, a black hole.

I have to tell you, under the Democratic leadership in this Senate, the Senate is becoming 98 percent anti-matter, or a black hole. When bills come out of committee, they are unanimously passed by a committee which has such a diverse viewpoint philosophically, ideologically, and regionally as our committee has, when those bills come out of that committee unanimously and will significantly improve kids going to elementary school, getting ready for school, kids in their early years, kids who have problems and who have significant issues, special-needs kids going through their school systems, people who need to be retrained in a workplace that requires constant retraining or, as in the case of the patients safety bill, will actually save lives because it will allow us to do a better job of delivering medical care—when they come out of committee and are unanimously supported by the full committee, they are unanimously supported to the extent they went through the subcommittee, to the full committee, unanimously supported, come to the floor of the Senate, and the other side of the aisle says that bill is going to be assigned to the black hole.

That bill disappears into what you might call ''Daschle Land'' where nothing comes back. Send the bill out and it is gone. Where did it go? I do not know. It went to ''Daschle Land.'' This can't continue. These pieces of legislation have to be taken up. We should consider them. We should pass them. After all, if they have unanimous approval from the committee of jurisdiction when that committee has some divergent views on it, they have to be pretty well worked out as a piece of law.

I have asked that we get the IDEA bill and the special education bill to conference. It hasn't happened. I have asked that we be able to bring up the Head Start bill. It hasn't happened. I have asked that we be able to go to the WIA bill and send it to conference. It hasn't happened.

Today I would like to ask that we be able to bring up the Patients Safety Act and pass it out of this Senate under a reasonable plan, under a reasonable set of options where we will essentially say people get a right to amend it on the substance of the bill and then move to conference.

I would like to present the following unanimous consent request relative to the Patients Safety Act.

UNANIMOUS CONSENT REQUEST—H.R. 663

I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the HELP Committee be discharged from further consideration of H.R. 663, the Patients Safety bill, and the Senate proceed to its consideration; provided that upon reporting of the bill Senator GREGG be recognized to offer a substitute amendment, the text of which is at the desk; provided further that there be one first-degree germane amendment in order to be offered by Senator KENNEDY or his designee and that that amendment be subject to a germane second-degree amendment to be offered by Senator GREGG or his designee, with no further amendments in order.

I further ask unanimous consent that there be a total of 2 hours for debate, and following the use or yielding back of the time the Senate proceed to a vote on or in relationship to the second-degree amendment, to be immediately followed by a vote on or in relationship to the first-degree amendment, as amended; provided that following disposition of the amendments, the substitute amendment, as amended, if amended, be agreed to; the bill, as amended, be read the third time, and the Senate proceed to a vote on the passage of H.R. 633, as amended, with no intervening action or debate.

Finally, I ask unanimous consent that following passage, the Senate insist upon its amendment, request a conference with the House of Representatives on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on behalf of the Senate with a ratio of 5 to 4.

Mr. REID. Reserving the right to object, first, I understand the frustration of the distinguished senior Senator from New Hampshire. We have spent a lot of time doing nothing. This afternoon is a good example. The Senator can add up the days as well as I can on this marriage amendment.

Prior to that, we wasted a week on class action. I have said before, the Republicans had a 5-foot jump shot. Not only were they afraid to take the shot, they walked away from it.

I understand the frustration. But also understand our frustration. The schedule is set by the majority. I make a counterproposal to my friend, for whom I have the greatest admiration.

I ask unanimous consent that the request by the Senator from New Hampshire be modified, modified to have the matter, the Patients Safety Act, H.R. 663—that the HELP Committee be discharged from further consideration of H.R. 663, the patients safety bill, and the Senate proceed to its consideration, the bill be read the third time, the Senate proceed to vote on passage of H.R. 633, with no intervening action or debate.

Before my friend responds, we think the bill we got from the House is a good bill. We don't think there needs to be any amendments. We are willing to complete that right now. It would take no further action. We would not need a conference committee. Then any other matters the Senator thinks should be tied up that are at loose ends, maybe we can add to one of the appropriations bills or something like that.

I ask consent the request by my friend from New Hampshire's; Senator GREGG's request be modified as indicated by my previous statement.

Mr. GREGG. Reserving the right to object, I simply note that I don't know whether we took the 5-foot jump shot, but I state right now, if we take up this bill, it will be a 2-foot slam dunk.

That is all we need to do. This bill came out of our committee. It came out of a Senate committee unanimously. It is reasonable that the Senate should insist on hearing its bill on the floor and that the Senate should pass its bill on the floor. That is all we are asking.

That is why I must object to the Senator's proposal to modify my amendment. I would presume that the Senator, having come from the House and knowing the vagaries of the House—which is why he came to the Senate because he so much more appreciated the intelligence and thoughtfulness of the Senate—would want to hear the Senate bill on the floor rather than to simply accept the House bill in its present form.

Therefore, although I greatly admire the Senator's attempt to be constructive in his initiative, because it is a constructive step, I am forced to object. I believe we should take up the

Senate bill under the context of what we have proposed, which would be a bill that was unanimously approved by a Senate committee of jurisdiction subject to the amendment process which is outlined.

In fact, should the Senator from Massachusetts agree with the Senator from Nevada that the House bill is better than the Senate bill—which I would find interesting since he supported the Senate bill as it came out of committee—he may offer that as his germane amendment.

The PRESIDING OFFICER. The objection to the modification is heard.

The Senator from Nevada.

Mr. REID. Mr. President, in this legislative body we rarely deal with anything that is perfect. Legislation is the art of compromise.

While the distinguished Senator from New Hampshire may have some good ideas on how to improve the bill we got from the House, we should look at what we will have if we could agree to do the House-passed bill.

Basically on our side, the bill was prepared by Senator JEFFORDS and others. As I understand it, it is S. 720 over here. It is a bill to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety.

I have no doubt, with the experience my distinguished colleague from New Hampshire has had as a Member of the House, as a Governor of the State of New Hampshire, and certainly a senior Senator over, that he can figure out ways to improve what the House has done. I have no doubt that is true.

But in the interim, knowing we are not going to be able to arrive at that point, I think we would be well advised to move forward with the work the House has done. As imperfect as it may be, it is still much better than nothing. Then I would be happy to work with my friend from New Hampshire on what he thinks can be done to improve this legislation that the House passed.

I met with the distinguished President pro tempore of the Senate this afternoon. He thinks there is a program that he and Senator BYRD have come up with that we can do all the appropriations bills before we adjourn in this session. If that is the case, there would be ample opportunity—and I would be happy to work with my friend from New Hampshire on even the appropriations bills to see if we could work something out. If not, there are other matters we could go through here.

We cannot let the perfect be the enemy of the good in this instance. We would be well advised to accept what my friend from New Hampshire said we need improvement in, and accept what the 435 Members of the House of Representatives have done.

A few minutes ago there were four former House Members on the floor: Senator CARPER walked off, the distinguished Member from New Hampshire, and the Senator from Nevada have all served in the House. They are good legislators.

I learned when I first came to the House of Representatives, House Members are usually better legislators than Senators. Why? The reason being, their jurisdiction is narrow compared to ours. We are a jack of all trades and master of none. In the House, they have a few masters. We should accept that.

As to this bill, with the considered experience we have had over here, we could probably improve what they have done. What they have come up with is certainly not that bad. In fact, it is good. It is a lot better than nothing. I hope my friend would reconsider the offer I made.

Let's pass right now this House-passed bill. It would be a step forward. Today we would have accomplished something. We would have accomplished making patients safer in America today—not as safe as my friend from New Hampshire thinks they should be but a lot safer.

I hope he will reconsider. I have always found him to be a very reasonable person, someone for whom I have great respect and admiration. I say it publicly all the time.

In this instance, I repeat, we should not let the perfect be the enemy of the good.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from New Hampshire?

Mr. REID. Yes.

The PRESIDING OFFICER. The objection is heard.

Mr. GREGG. Mr. President, I appreciate the assistant Democratic leader's constructive suggestion in an attempt to move this process along relative to offering the House amendment.

However, there really is no reason we should just take the House language as it stands. The two bodies have both propounded bills which are substantive. This proposal which I have put forward requires only 2 hours in order to put it across the floor and we can go into conference. As a result of that, we can meet in conference and, obviously, reach a conclusion—I think, fairly quickly—which will make a very good bill. There is no reason in this instance we should not have a very good bill.

I do regret we cannot move forward at this time on this bill in the regular course under regular order as it would be presented in the unanimous consent request which I presented.

I thank the Senator from Nevada. As in the past, his courtesy is always very generous. He is obviously a very effective spokesman for the Democratic membership of this Senate, and I admire his work.

I yield the floor.

## UNITED STATES-AUSTRALIA FREE TRADE AGREEMENT

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I rise in support of the United States-Australia Free Trade Agreement. I support the agreement because 8,000 Minnesotan manufacturers, which employ some 350,000 families in my State, list the United States-Australia Free Trade Agreement as a top priority in maintaining good-paying Minnesota jobs, and that is important.

Like the JOBS bill, the highway bill, the Energy bill, as well as class action, medical malpractice, and asbestos reform litigation, the Australia Free Trade Agreement is about jobs. I was always fond of saying, when I was a mayor—and I am fond of repeating as a Senator—it is about jobs. The best welfare program is a job. The best housing program is a job. Access to health care comes with a job. Jobs are important.

While we have seen the hopes of our Nation's manufacturers dashed time and again on these other top priorities—we are still waiting for the JOBS bill to get done; we are still waiting for asbestos reform legislation to get through; we are still waiting for class action reform legislation to get through a filibuster—the reality is, we still have an opportunity to salvage the hopes of millions of working men and women in this country, men and women who could not care less about who gets the credit for keeping the economic recovery going, just as long as it keeps going.

We have grown over 1.5 million jobs in the past 10 months and in part because of the policies of this administration: the tax cuts that put money in the pockets of moms and dads, the tax cuts that allowed businesses to invest and to reinvest, the increasing expensing operations, the bonus depreciation, those things that lowered capital gains, those things that allowed businesses to say: We are going to invest, we are going to put it back in the business.

In the end, when business grows, when moms and dads have more money in their pockets, they spend that money on a good or a service, and the person who produces that good or service has a job. And that is a good thing.

So we have seen more than 1.5 million jobs in the past 10 months, but we cannot afford to rest on our laurels or wait out the results of a Presidential election. The time to act on the jobs agenda, as laid out by President Bush, is now. It is now.

The Australia Free Trade Agreement is just one component of the President's jobs agenda. This agreement builds on the $12 billion in manufactured U.S. exports to Australia and the 160,000 American jobs owing to our trade with that very important friend and ally in the global war on terror.

According to the National Association of Manufacturers, by tearing down Australian tariffs imposed against 99 percent of U.S. manufactured exports—which accounts for 93 percent of everything we sell to that country—our Nation's manufacturers stand to gain $2 billion a year in increased exports to Australia, giving us a leg up on Europe, Japan, and China.

This is not pie-in-the-sky stuff. This is very real to Minnesotans. I have 6,700 exporting companies in my State. In fact, 1 out of every 5 manufacturing jobs in Minnesota is owed to exports, and Australia is our 10th largest export market.

Let me give you some real-life examples because I think the problem most often with trade is that we vividly see jobs lost or businesses shut down, sometimes due to trade, and we need to understand that, we need to see that, we need to know the impact, and then we need to do those things to lessen that impact. But rarely do we see or hear about the jobs created or the businesses born as a direct result of our trade policy.

It is kind of like talking about tax cuts. We talk about them in abstract. We sound like accountants. We talk about trade and sound like economists. But the reality is, there is a mom or a dad who has a job opportunity because of the trade opportunities we create.

Polaris is a good example. It is a Minnesota company of which I am extremely proud. It is located way up in the northwest part of the State, about 10 minutes from Canada in a town called Roseau. Roseau has about 2,756 people at last count, the most famous being the former Secretary of Agriculture under President Carter, Bob Berglund, who is a very good friend of mine. They also grow a lot of hockey players, really talented hockey players in Roseau, MN.

Talking about former Secretary of Agriculture Berglund, lots of folks, when they get through being a Congressman or a Senator or a Secretary of this department or that department, retire to some beach in Florida, but not Bob Berglund. He went home to give back to the people of Roseau all the support he had received through his years of distinguished service.

Roseau suffered from some terrible floods not too long ago, and there was former Secretary of Agriculture Bob Berglund leading a group of folks in the town, figuring out how to deal with the flooding issue on a long-term basis. So we were not literally sticking our fingers in the dike, but we were looking beyond that. That is Bob Berglund.

In any case, Roseau would not be the town it is if it were not for guys like Bob Berglund, an indomitable spirit that pervades that place and everyone I have ever met there, and a company called Polaris.

I will go back to the flooding. When the flooding happened, the folks from Polaris did not abandon them. They were there working in the community, seeking to make a difference. They have had serious flooding over the years, and we have had to work to rebuild that town. We are still at it, and so is Secretary Berglund and so is Polaris, which is celebrating, just this year, 50 years of business. Here is what the president of Polaris, Tom Tiller, had to say about the Australia Free Trade Agreement:

> In 2004, Polaris will do over $10 million in sales to Australia. While the majority of those sales will be conducted by Polaris Sales Australia, all of the machinery sold in that distribution network is manufactured in Minnesota . . . so increased sales in Australia means more jobs in Minnesota.

Polaris is especially excited about the opportunity to sell all-terrain vehicles to the Australians under the new access granted under this agreement.

I cannot mention Polaris without mentioning another very important manufacturer in the State of which I am so proud, Arctic Cat. Arctic Cat is also located in northwest Minnesota, maybe about an hour away from Canada, in a town called Thief River Falls. Chris Twomey, with Arctic Cat, points out that:

> Due to high tariffs, Arctic Cat sells less than $5 million in products to Australia. The Australia Free Trade Agreement makes it a lot easier for us to increase our sales there and increase our production here at home.

This is another top-of-the-line all-terrain vehicle coming from another top-of-the-line all-Minnesota company. I am proud of those companies. I am proud of the people they employ. And I am proud of the expanded opportunity they will have to sell, to grow jobs, to make profit, to strengthen the lives of their employees and the lives of their communities—all of which are enhanced by the Australia Free Trade Agreement.

My paper and wood products industry is also very important to my State, starting a little west of where Polaris and Arctic Cat call home and extending all the way over to northeastern Minnesota. But for this industry and all the jobs it has provided over the years, northern Minnesota—which has seen some tough times—would have been in dire straits. Minnesota's International Paper and Blandin United Paper Mill are strong supporters of the Australia Free Trade Agreement because it will open the doors of Australia and the Pacific Rim to our paper and wood products industries. Again, those industries are part of the economic lifeblood of those communities. I want them to prosper. I want them to grow. I want them to have expanded opportunity. And they will get that from this agreement.

But it is not just northern Minnesota with a stake in the passage of this agreement. Eagan, MN, a growing suburb just south of St. Paul, also has a stake, as do communities all over my State. The Lockheed Martin manufacturing facility in Eagan had $40 million in international sales last year alone, with a part of that figure owing to the construction and sale of the P–3 Maritime Patroller to Australia. Currently, Eagan is in the running for another contract with Australia worth over $30 million to that community, and, according to Lockheed Martin, passage of the Australia Free Trade Agreement puts us one step closer to securing that contract.

And 3M, which not everyone knows stands for Minnesota Mining and Manufacturing, a great St. Paul company—in the neighborhoods of St. Paul they call it ''the mining,'' but it is Minnesota Mining and Manufacturing—notes that Minnesota companies alone will save some $5 million in Australian tariffs when they come down under this agreement.

This is not an abstract topic for Minnesota. It is very real. The Australian Free Trade Agreement has the potential to sustain and grow real, good-paying Minnesota jobs. For me, that is decisive because jobs are what it is all about. I don't want to oversell this agreement because that has been done too often with respect to trade agreements. That is important to repeat. Far too often on both sides we look at a trade agreement and we oversell it. And then if we don't reach those high expectations, people say: Well, it didn't work; it is no good.

We are talking about moving the ball forward. We are talking about moving the economy. We are talking about more progress, more economic growth, and more opportunity. We are talking about more jobs. I am not going to sell. A lot is promised under these agreements and, frankly, they usually fall somewhat short of the mark.

Let me say what I have heard from my manufacturers, what I have heard from Polaris, Arctic Cat, International Paper, and Lockheed. They have said the Australian agreement means opportunity, give us that opportunity. So today in the United States we have a chance to do just that. We ought to and, fortunately, I expect that we will. We will give them the opportunity when we consider the Australia Free Trade Agreement and get it passed.

Having said that, I would be remiss if I did not take this opportunity to underscore a very important point that I hope is not missed by my colleagues, particularly by those who are in charge of negotiating this agreement or any other trade agreement; that is, the importance of U.S. agriculture to trade. Their success is mutually and inextricably linked. I do not believe U.S. agriculture can succeed without moving forward on trade, nor do I believe that trade can move forward without U.S. agriculture.

With Minnesota in the top 10 among States for the production of nearly every commodity that can be produced in our climate, the success of my farm families is extremely important to mainstream Minnesota. It is important to me.

Let me begin with sugar. Few folks realize Minnesota is the No. 1 sugar-producing and processing State in the country. Folks sometimes think about Florida, Louisiana, and other places, but it is sugar beets which makes the same kind of sugar you buy in your local store. And more sugar is produced from sugar beets than from cane sugar. Minnesota farm families own both the production and processing sides of our

State's sugar beet industry, an industry that is directly or indirectly responsible for $2 billion in economic activity and about 30,000 jobs. The exclusion of sugar from the Australian agreement has been much maligned by folks inside and outside the Chamber, but not by this Senator. Let me tell you why.

The fact is, the reason we are able to stand here now on the cusp of passing the Australia Free Trade Agreement is in part or in whole owing to how this administration wisely handled sugar. Today, the Australia Free Trade Agreement is on the move. The sad reality is that CAFTA is up on the blocks. CAFTA is another great opportunity. We need to work to strengthen our trade opportunities with our friends in Central America. We have seen the flourishing of democracy there. Our Central American friends and allies deserve the benefit of expanded trade opportunity. CAFTA is up on the blocks. We have to figure a way to move it forward and to deal with the sugar problem in CAFTA.

When I say ''deal with,'' this is not about parochialism or protectionism. It is about common sense and equity. Common sense says if you have a world problem, as the distortion in the sugar market most certainly is, you handle the problem in a global context. In other words, the right place to deal with sugar is in the World Trade Organization, not in these bilateral and regional agreements. Equity requires that when our trade team rightly decided that discussions concerning the farm bill's safety net for other commodities, such as corn and soybeans, should be reserved for the WTO and excluded from bilateral or regional agreements, the same should hold true for sugar: Common sense and equity.

In regard to the farm bill, I would point out that this legislation is to our farm families in rural America what the JOBS bill we just overwhelmingly passed is to our Nation's manufacturers. To anyone who has gone to see the new World War II Memorial, you will notice all the wreaths that represent the two pillars of industry and agriculture. Those responsible for both are critical to this country. We must not unilaterally disarm against either in global competition, which today is not always free and not always fair.

As for my State's sugar farmers, they are among the most competitive in the world. In fact, America's sugar farmers are among the top one-third in the world in overall efficiency, as measured by the cost of production. But what they face is a dump market where the average world cost of production per pound is 16 cents while the average selling price per pound is only 6 cents. As the saying goes, something is rotten in Denmark. I don't want to blame the Danes on that, just an expression.

Meanwhile, the U.S. sugar policy has been good to taxpayers and consumers alike. The U.S. sugar policy costs taxpayers nothing and, in fact, the two times in recent history where the U.S. had no sugar policy, consumer prices received the brunt of it when prices spiked to record highs. So my deepest thanks and appreciation go out to the Bush administration and its trade team for doing what is right by America's sugar farmers, right by Minnesota, and right by this Senator. You have a good model now on sugar, one that moves the trade agenda forward. We ought to stick with it.

Dairy is another important industry in Minnesota—we are fifth in the Nation—and here again our trade team deserves thanks for working with me and other interested Senators, as well as our Nation's dairy farm families, in arriving at a more workable although not perfect solution. Maintaining the second tier tariff for Minnesota dairy farmers is an absolutely essential part of this agreement. I am pleased that we have worked with our trade team on this issue. I don't want to get into discussions of the complexity of dairy policy on the floor of this body, but this issue of a second-tier tariff was important to my dairy farmers and dairy farmers throughout America. We managed to make sure that we maintained that second-tier tariff. That was a good thing.

Under the agreement, in-quota dairy imports are estimated to equal only 0.17 percent of the annual value of U.S. dairy production, and only about 2 percent of the current value of imports. Finally, assurances by our trade team that imports will not affect the operation of the milk price support program are extremely important to me and to America's dairy farmers.

Today I have 6,000 hard-working dairy farm families who milk about half a million cows every morning and night, who can breathe a little easier, thanks to the efforts of our trade team. I stress, less than 10 years ago we had about 14,000 Minnesota families. So we have lost over half the dairy farmers in our State. I presume that pattern has been shown in other parts of the country. But those 6,000 hard-working dairy farm families can sleep a little easier tonight thanks to the efforts of our trade team.

Again, it is not a slam dunk. This agreement is not perfect, but it is more workable to my dairy farmers and cooperatives at home because second-tier tariffs were maintained and in-quota imports are expected to be low.

My cattlemen are about where my dairymen are. They are relieved, but I would say our trade team had to overcome a very difficult issue. On the whole, they worked very hard to address the concerns of Minnesota's cattlemen. They phase down U.S. tariffs over an 18-year period and phase up the amount of in-quota access, all the while providing safeguards to protect against import surges that would disrupt U.S. markets. And at the end of the 18-year period, another safeguard is put in place to protect against import surges that would otherwise depress U.S. beef prices.

As a Senator representing nearly 16,000 cattlemen and a State that ranks sixth in beef production, my support for this agreement is couched in part on my reliance that these safeguards for U.S. beef will, in fact, be allowed to work as intended and that any waiver would be undertaken only in the rarest of circumstances, circumstances that I, frankly, can't conceive of now as I speak.

Steve Brake, a good friend of mine, is president of the cattlemen. Whenever I get to cattle country, I touch base with him to where things are. He understands. It is extremely important to him and his fellow cattlemen that we strictly enforce these safeguards. I know I will hear from Steve if we don't. If I hear about it from Steve, our trade team is going to hear about it, too. The safeguards are in place. I have great respect for what has been done, and I think our cattlemen can sleep easier tonight.

I am pleased that the sanitary and phytosanitary issues that stood in the way of our pork producers' access to the Australian market have been favorably resolved, leading to the endorsement of the agreement by more than 6,000 Minnesota pork producers. I will repeat that. These issues have been resolved and have led to the endorsement of the agreement by my more than 6,000 Minnesota pork producers.

I also appreciate the work of our trade team in pressing the issue of the Australian Wheat Board, a monopolistic state trading enterprise whose time has passed. While I am disappointed we were unable to do away with the board under this agreement, I am pleased the Australians have agreed to discuss this issue in the Doha Round of the WTO.

Overall, I believe this administration had a tough job to do and it did it reasonably well—job well done—something evidenced by the likely passage of this agreement. The Australia Free Trade Agreement is a good precursor to the WTO discussions that will take place in Geneva yet this month because it underscores a point: You don't have to give away the farm to negotiate a good agreement, and you may not pass one if you do.

So the Australia Free Trade Agreement that President Bush has sent to Congress is about sustaining and growing American jobs. It is about bolstering support in the economic opportunity of our rural families, our rural communities, and the incredible work they do to produce the safest, most affordable food supply in the world.

So to the President and our trade team, I say: Job well done. To our Members and colleagues in this body, I say: Let us move forward and pass the Australia Free Trade Agreement.

I yield the floor.

## RECESS

Mr. COLEMAN. Mr. President, I ask unanimous consent that the Senate now stand in recess until 4 p.m. today.

There being no objection, at 3:02 p.m., the Senate recessed until 4:01 p.m., and reassembled when called to order by the Presiding Officer (Mr. CORNYN).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Texas, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE

Ms. STABENOW. Mr. President, today I rise to discuss yet another revision by the administration to the new Medicare law. We all know the administration refused to give Congress an estimate on how much the Medicare bill would cost. We later found OMB estimated that the Medicare law would cost $534 billion over the next 10 years, $134 billion more than was estimated by the Congressional Budget Office.

We also know the CMS actuary, Richard Foster, said the high cost projection was actually known before the final House and Senate votes on the legislation last November. But Mr. Scully told him, ''We can't let that get out.''

In an e-mail to colleagues at CMS, Foster indicated he believed he might lose his job if he revealed the administration's cost estimates for the Medicare legislation.

Now we are getting another round of revised numbers. In last year's debate, Republicans repeatedly claimed the new drug benefits would be completely voluntary, that seniors happy with the current Medicare system should be able to keep their coverage the way it is. In fact, we have heard President Bush say that over and over again. He said that in the State of the Union Message in 2003.

But many of us warned at the time that because of the way the benefit was structured, employees with good retiree coverage would lose it. People who currently have coverage, currently have prescription drug assistance, actually could lose it. At the time the Congressional Budget Office estimated 2.7 million seniors and disabled could potentially lose—they indicated would lose—their retiree drug coverage because of the way this was written, in terms of the interface with the private sector retiree coverage. But once again the numbers are coming back even worse than was thought.

In today's New York Times, Health and Human Services now has estimated that not 2.7 but 3.8 million retirees will lose their prescription drug benefits when Medicare offers the coverage in 2006. HHS admitted this represents one-third of all retirees with employer-sponsored drug coverage.

I know CMS Administrator McClellan has released a press statement disputing the article.

I hope we get to the bottom of what is going on with this revision. But certainly what has happened up to date does not give us confidence in the information they have given to us. The administration certainly can't possibly think seniors will be happy to hear that up to one-third of those who have current coverage will lose it when this new Medicare law takes effect.

When you think about folks who have worked all their lives, and probably paid attention to the fact they had health insurance and retirement benefits, planned for that possibly over the life of their worktime, they took pay cuts in order to guarantee they had that retirement benefit, or wage freezes as people are being asked today, make sure in their retirement they had that coverage, and now this law is estimated to actually lose the private retiree coverage up to one-third of those who have it today.

My mother is one of those folks, a retired nurse. She followed the debate we had in great detail. One of the questions she had for me after the passage of this law was whether she would lose her benefits. I had to honestly say: Mom, I don't know.

One of the things we heard was those who may be in a situation most likely to lose may, in fact, be those who are nurses or police officers or retired firefighters or others who are in local or State government with all of the cutbacks where State and local governments are being forced to cut back.

It is amazing to me that in light of what we are seeing, point after point—information that wasn't given, information that wasn't accurate, the inability to negotiate group discounts under Medicare, the confusion on the prescription drug card—I hate to even call them discount cards because we know from AARP and from Families U.S.A. and from all of the groups that watched this that, in fact, the drug companies increased their prices very rapidly knowing they were going to be asked to give a discount through a discount card—we have seen prices go up 10, 20, 30 percent since we passed the law back in November, so they could then provide a card with a 15-percent discount or a 20-percent or a 25-percent discount. Seniors know after they watched this happen that it was not really a discount.

We have seen the confusion about how to even wade through the 40, 50, 60, or 70 different cards you may be able to choose from as a Medicare beneficiary to see if you can even begin to get a discount. We have seen the confusion of low-income seniors who actually have the most to gain because there is a $600 credit to buy prescription drugs attached to the card, and yet there is such confusion about how to even sign up and qualify, and that those who probably need it the most will be the ones least likely to receive it.

We have seen confusion and misinformation and threats to people about losing jobs if they tell us the truth and bad policies that over and over again have been put into place to help the industry instead of helping seniors and helping the disabled.

While all of this is going on, prices just keep going up. People need their medicine every day. Whether it is confusing or not, whether people are going to lose their coverage or not, today folks walk into the pharmacy trying to get their medicine, or maybe they didn't go in because they couldn't afford it, or maybe they went into the pharmacy but not the grocery store because they couldn't afford to do both, or maybe, as the couple I talked to not too long ago who were on the same medicine, the husband takes it one day and the wife takes it another day.

We can do better than that. This is the greatest country in the world. Shame on us for not being able to get this right and not being able to do it now.

The good news is we can do it now. We have a proposal in front of us that will allow the competition necessary in the pharmaceutical industry to bring prices down immediately. It is called reimportation of prescription drugs. We have talked about it so many times. I have been talking about it since being a House Member, and talking about taking bus trips to Canada. Now in my fourth year in the Senate, we are still talking about what ought to be done to bring down prices. But the good news is that things are beginning to move.

I was pleased to join with the AARP and with colleagues on both sides of the aisle, Senator SNOWE, Senator MCCAIN, Senator DORGAN, and I today to talk about the fact that we believe we have the votes now in the Senate to be able to pass meaningful, safe, reimportation of prescription drugs. All we need is the opportunity to vote on it. All we need is the opportunity to make the case to our colleagues.

There was a Senate Judiciary Committee hearing today. We understand that the HELP Committee will be meeting hopefully to report out a bill later this week. That bill has been introduced and hearings are scheduled, and rescheduled. Hopefully, that will happen this week.

While we are talking about it, while ineffective Medicare legislation passed with all this confusion and information, there is a sense of urgency on the part of every single person using medicine today because they are paying too much. It is not just our seniors, who certainly use the most medicine, or the disabled; it is also the family who has a child with a chronic disease, or it is a person of any age who is using medicine, or it is the businesses that have seen their premiums skyrocket in large part because of the skyrocketing prices of prescription drugs.

I come from a great State that makes automobiles. We are very proud of that. When I sit down with the Big Three automakers which are desperately concerned about the cost of

health care and what needs to be done, they show me numbers. One-half the increase in their health care costs is because of prescription drugs. I know this is also true with small businesses which, on overage, have seen their premiums double at least in the last 5 years. In fact, it is more likely to be doubling every 3 years.

The opportunity we have to create more competition and to open the borders is something that not only would help our seniors, many of whom are incredibly disillusioned and, frankly, angry that a Medicare bill was passed that may not be of much help at all to them. But we can also be helping every single American from the youngest to the oldest as well as businesses if we do this and do this now.

We have 1 more week before we break for the summer. We know there are precious few weeks when we come back in the fall. This needs to get done now.

There are 31 in the Senate on both sides of the aisle from all different political beliefs who are cosponsoring this reimportation bill. Our bill provides substantial safeguards and assures quality and affordability. Our bill ensures that licensed pharmacists in the United States can do business with licensed pharmacists in Canada and in other countries with strong safety standards.

Our bill provides for inspections for anticounterfeiting technologies and chain of custody. Our bill is a well-thought-out, well-designed piece of legislation that meets and addresses every legitimate concern that has been raised.

There is no reason Americans should not have access to safe, FDA-approved drugs that come from FDA-inspected facilities in our country or other countries. We have been debating this issue far too long. I am extremely hopeful we will be able to see a debate in the Senate and a vote before we leave this summer.

Researchers at Boston University have told me that in the 1-month delay for the markup of the HELP Committee—the bill was on the agenda a month ago; now it will be on this next week—we could have saved over $5 billion by simply allowing citizens to do business with Canadian pharmacies.

That means $5 billion has been spent, coming out of the pockets of people choosing between food and medicine, caring for their children, worried about being able to have medicine for their disability, or a small business struggling to make it through insurance premium increases, or a large business. That is $5 billion just by not acting this last month. I assume that means $5 billion next month and $5 billion the month after.

The legislation we have put together on a bipartisan basis will make a real difference. It is something we can do now.

I commend my House colleagues on both sides of the aisle who have not only passed legislation similar to the legislation we now have worked on and developed on a bipartisan basis, but they have, once again, placed language in the Agriculture appropriations bill that would stop any enforcement against reimportation and allow it to continue. This passed the House of Representatives just yesterday.

It is time for the Senate to step up and to make this happen. In the past, there has been an effort to require certification by Health and Human Services regarding safety. That, unfortunately, has been a barrier by those who simply do not want to do this. So we have taken a different route this time. We have decided to sit down and go through all the safety standards and regulations and put it in the statute. That is what we have done.

We have also included in the bill an effort that Senator FEINSTEIN has worked on regarding Internet drug efforts and safety requirements.

There is no reason substantively not to pass our drug reimportation bill if the goal is to help lower the costs of prescription drugs through competition and to lower prices for our seniors and for our families and for our businesses. We have the tool. Let's not wait another month and another $5 billion, or another 2 months, $10 billion, or $15 billion or $20 billion, when we have the ability to join with the majority of our House colleagues and get this done now.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. 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. LAUTENBERG. Mr. President, are we presently acting as in morning business?

The PRESIDING OFFICER. The Senate is on the motion to proceed to S.J. Res. 40.

Mr. LAUTENBERG. I ask unanimous consent the pending business be put aside and that I have 15 minutes to present my speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

ISRAEL-BASHING AT THE UNITED NATIONS

Mr. LAUTENBERG. Mr. President, I rise today to talk about a serious problem that faces our world, one that is reflected directly in the activities at the United Nations. It is anti-Semitism. It is what we see at the U.N., the distinctly unjust treatment of 1 of its 192 member countries, the State of Israel.

A historic moment occurred last month. For the first time in its six-decade history, the U.N. actually convened a conference to discuss the growing problem of anti-Semitism worldwide. While it is heartening to see this development, the fact remains that since its creation in 1946, the U.N. has never produced any resolutions specifically aimed at anti-Semitism. Nor have any of its ancillary bodies ever issued any report on the subject of discrimination against Jews and Israel.

At the conference I just mentioned, Columbia Law School professor Anne Bayefsky delivered a remarkable speech. I ask unanimous consent that her speech be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. LAUTENBERG. Mr. President, Professor Bayefsky highlighted the history of the intolerance of the United Nations and outright discrimination against Israel.

Now, what does discrimination to Israel mean? It is exemplified in denying Israel and only Israel admission to the vital negotiating sessions of regional groups held daily during meetings of the U.N. Commission on Human Rights. It means devoting 6 of the 10 emergency sessions ever held by the General Assembly to repudiating Israel.

In contrast, no emergency session was ever held on the Rwanda genocide, estimated to have killed 1 million people, or on the so-called ethnic cleansing of tens of thousands of people in the former Yugoslavia, or on the atrocities committed against millions of people in Sudan in past decades.

More than one-quarter of the resolutions adopted by the Human Rights Commission over the last 40 years condemning the human rights record of various nations have been directed solely at Israel. There has not been a single resolution critical of China for suppressing the civil and political rights of its 1.3 billion people. There has not been a single resolution condemning the deadly racism in Zimbabwe that has brought 600,000 people to the brink of starvation.

It seems that anti-Israeli sentiment pervades the top levels of the U.N. hierarchy. The Secretary-General publicly condemns the tactics Israelis are forced to use to defend themselves, but he never once mentions the terrorist attacks that precipitate the response.

Because of this blatant bias, it is not surprising that last Friday the International Court of Justice—the U.N.'s court—squarely found that the barrier the Israelis are building to protect themselves violates international law. The ICJ demanded it be torn down and insisted that Palestinians be compensated for any damages.

Now, make no mistake, I believe an organization comprised of nations around the world must exist. I believe the United Nations is that organization. But it must operate fairly and be balanced. It is precisely because of my idealism regarding the role of the U.N. and the ICJ in international affairs that I am so disappointed in the court's one-sided decision last week.

The bias emanates not so much from the decision itself but from what the

judges neglected to mention. They remained absolutely silent about the suicide bombers, the terrorist attacks that have killed over 1,000 Israelis in the past 4 years. In relative terms, it would be the equivalent to over 46,000 Americans.

I think it is informative that 1 week earlier, Israel's own Supreme Court also ruled on the barrier. The Israeli Supreme Court determined that the barrier is defensible as a security measure but ordered the Israeli Army to reroute a section of it in response to Palestinian concerns and make it hew more closely to the pre-1967 Green Line.

The justices wrote:

> We are aware that this decision does not make it easier to deal with that reality, [but] is the destiny of a democracy.

They added that a democracy such as Israel's:

> does not see all means as acceptable, and the ways of her enemies are not always open before her. A democracy must sometimes fight [back] with one arm tied behind her back.

The Israeli Supreme Court sent the strongest message, perhaps, to Israel's enemies of its uniqueness, resilience, and fundamental goodness.

The Israeli children are never subjected to lessons in the school that say: ''Learn to kill your Arab neighbors,'' as contrasted to textbook after textbook in surrounding countries that say: ''You must learn to kill the Jews and kill the Israelis.''

As a matter of fact, this morning on television, what I saw was a group of very young Palestinian children being taught military methods so they can one day give their lives carrying a suicide bomb. It is incredible, when you think about it, that the Israelis should pay attention to the rights of the Palestinians, when you never hear in any of the Arab countries surrounding Israel that they ought to pay attention to the rights of the Israelis. It is very hard to even get a condemnation from them when some mad suicide bomber comes in and takes innocent Israeli lives without provocation.

Israel's vibrant, even if imperfect, democracy is precisely the reason why the U.N. bias against her is so unjust. Israel is a country in which huge crowds often gather in Tel Aviv's Rabin Square to demand the Government quickly end its support of settlements, challenging the views of lots of Israelis who want to use these settlements. But there is a fairness, an equity in the views of the Israelis that prevents them from going ahead and supporting these activities.

Israel is a country in which domestic human rights groups, in an act of political protest, recently mounted a photo exhibit of Israeli soldiers abusing Palestinian civilians—in the lobby of its Parliament, the Knesset.

Could you ever imagine that taking place in Damascus? Or Iraq, as it was? Or even a country as friendly as Egypt seems to be?

Israel is a country in which top reservists in the army and air force have refused to serve in the West Bank because they do not support the policies of the Sharon Government.

In an ideal world, Israel could prevent suicide bombers from infiltrating its cafes and malls and buses. But the Israelis do not live in an ideal world. The security fence is a measure of last resort. Israelis felt compelled to build the security fence after Palestinian terrorists launched 50 successful suicide bombings in 2002.

The security fence, as Israel's Supreme Court rightly concluded, is a defensive measure. And as a defensive measure, it has been very effective. There were 50 suicide bombings in 2002. In 2003, there were 20. So far this year, there have been eight. That is a very positive outcome.

The most recent bombing attack in Israel occurred this past Sunday, July 11, on a Tel Aviv bus, killing one soldier and injuring a dozen civilians. One of the injured was a 29-year-old named Sammi Masrawa, an Israeli Arab who leads an Arab-Jewish friendship group in the Tel Aviv area. Mr. Masrawa told the press he had opposed the barrier. In fact, he even took part in protests against it. But the bombing on Sunday changed his mind. He said:

> I will now be for [the fence] and form an organization in favor of it.

I wonder: How might the 15 judges of the United Nations' highest court justify their ruling to Sammi Masrawa, who from his hospital bed now pledges to lobby in support of the security fence.

His quest for peace underpinned by real security should be the call to which the United Nations and the international community respond. Instead, the ICJ has allowed an anti-Israel bias to cloud its vision and undermine its noble purpose.

We Americans need to wake up to the fact that the U.N. and its ancillaries are fundamentally hostile to Israel. We need to wake up to the fact that the U.N. and its ancillaries are unwilling to stanch the murderous flow of worldwide anti-Semitism. Why is this important? Because what affects Israel affects the United States as well.

Israeli nuclear physicist Haim Harari recently gave a speech in which he grimly but accurately described the virulent new strain of terrorists who are not only threatening Jerusalem, they are threatening Bali, Istanbul, Madrid, Riyadh, and New York. I urge my colleagues to read his message and reflect on what we must do to protect America and Israel, fix the U.N., and promote freedom and democracy and human rights around the world.

I hope also to remind our Arab friends in the area—be that Egypt or Kuwait or some of the other countries there—we care about these kinds of poisons that pervade the atmosphere, and we cannot tolerate that kind of an attitude, and won't, in our relationship with the U.N. or without or within these countries.

I ask unanimous consent that Dr. Harari's speech be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 2.)

Mr. LAUTENBERG. I yield the floor.

EXHIBIT 1

[From On The Record, June 21, 2004]

ONE SMALL STEP: IS THE U.N. FINALLY READY TO GET SERIOUS ABOUT ANTI-SEMITISM?

(By Anne Bayefsky)

(Editor's note: Ms. Bayefsky delivered this speech at the U.N. at a conference on Confronting Anti-Semitism: Education for Tolerance and Understanding, sponsored by the United Nations Department of Information, this morning.)

I appreciate the opportunity to speak to you at this first U.N. conference on anti-Semitism, which is being convened six decades after the organization's creation. My thanks to the U.N. organizers and in particular Shashi Tharoor [the undersecretary-general for communications and public information] for their initiative and to the secretary-general for his willingness to engage.

This meeting occurs at a point when the relationship between Jews and the United Nations is at an all-time low. The U.N. took root in the ashes of the Jewish people, and according to its charter was to flower on the strength of a commitment to tolerance and equality for all men and women and of nations large and small. Today, however, the U.N. provides a platform for those who cast the victims of the Nazis as the Nazi counterparts of the 21st century. The U.N. has become the leading global purveyor of anti-Semitism—intolerance and inequality against the Jewish people and its state.

Not only have many of the U.N. members most responsible for this state of affairs rendered their own countries Judenrein, they have succeeded in almost entirely expunging concern about Jew-hatred from the U.N. docket. From 1965, when anti-Semitism was deliberately excluded from a treaty on racial discrimination, to last fall, when a proposal for a General Assembly resolution on anti-Semitism was withdrawn after Ireland capitulated to Arab and Muslim opposition, mention of anti-Semitism has continually ground the wheels of U.N.-led multilateralism to a halt.

There has never been a U.N. resolution specifically on anti-Semitism or a single report to a U.N. body dedicated to discrimination against Jews, in contrast to annual resolutions and reports focusing on the defamation of Islam and discrimination against Muslims and Arabs. Instead there was Durban—the 2001 U.N. World Conference ''Against Racism,'' which was a breeding ground and global soapbox for anti-Semites. When it was over U.N. officials and member states turned the Durban Declaration into the centerpiece of the U.N.'s antiracism agenda—allowing Durban follow-up resolutions to become a continuing battlefield over U.N. concern with anti-Semitism.

Not atypical is the public dialogue in the U.N.'s top human rights body—the Commission on Human Rights—where this past April the Pakistani ambassador, speaking on behalf of the 56 members of the Organization of the Islamic Conference, unashamedly disputed that anti-Semitism was about Jews.

For Jews, however, ignorance is not an option. Anti-Semitism is about intolerance and discrimination directed at Jews—both individually and collectively. It concerns both individual human rights and the group right to self-determination—realized in the state of Israel.

What does discrimination against the Jewish state mean? It means refusing to admit

only Israel to the vital negotiating sessions of regional groups held daily, during U.N. Commission on Human Rights meetings. It means devoting six of the 10 emergency sessions ever held by the General Assembly to Israel. It means transforming the 10th emergency session into a permanent tribunal—which has now been reconvened 12 times since 1997. By contrast, no emergency session was ever held on the Rwandan genocide, estimated to have killed a million people, or the ethnic cleansing of tens of thousands in the former Yugoslavia, or the death of millions over the past two decades of atrocities in Sudan. That's discrimination.

The record of the Secretariat is more of the same. In November 2003, Secretary-General Kofi Annan issued a report on Israel's security fence, detailing the purported harm to Palestinians without describing one terrorist act against Israelis which preceded the fence's construction. Recently, the secretary-general strongly condemned Israel for destroying homes in southern Gaza without mentioning the arms-smuggling tunnels operating beneath them. When Israel successfully targeted Hamas terrorist Abdel Aziz Rantissi with no civilian casualties, the secretary-general denounced Israel for an ''extrajudicial'' killing. But when faced with the 2004 report of the U.N. special rapporteur on extrajudicial executions detailing the murder of more than 3,000 Brazilian civilians shot at close range by police, Mr. Annan chose silence. That's discrimination.

At the U.N., the language of human rights is hijacked not only to discriminate but to demonize the Jewish target. More than one quarter of the resolutions condemning a state's human rights violations adopted by the commission over 40 years have been directed at Israel. But there has never been a single resolution about the decades-long repression of the civil and political rights of 1.3 billion people in China, or the million female migrant workers in Saudi Arabia kept as virtual slaves, or the virulent racism which has brought 600,000 people to the brink of starvation in Zimbabwe. Every year, U.N. bodies are required to produce at least 25 reports on alleged human rights violations by Israel, but not one on an Iranian criminal justice system which mandates punishments such as crucifixion, stoning and cross-amputation of the right hand and left foot. This is not a legitimate critique of states with equal or worse human rights records. It is demonization of the Jewish state.

As Israelis are demonized at the U.N., so Palestinians and their cause are deified. Every year the U.N. marks Nov. 29 as the International Day of Solidarity with the Palestinian People—the day the U.N. partitioned the British Palestine mandate and which Arabs often style as the onset of al naba or the ''catastrophe'' of the creation of the state of Israel. In 2002, the anniversary of the vote that survivors of the concentration camps celebrated, was described by Secretary-General Annan as ''a day of mourning and a day of grief.''

In 2003 the representatives of over 100 member states stood along with the secretary-general, before a map predating the state of Israel, for a moment of silence ''for all those who had given their lives for the Palestinian people''—which would include suicide bombers. Similarly, U.N. rapporteur John Dugard has described Palestinian terrorists as ''tough'' and their efforts as characterized by ''determination, daring, and success.'' A commission resolution for the past three years has legitimized the Palestinian use of ''all available means including armed struggle''—an absolution for terrorist methods which would never be applied to the self-determination claims of Chechens or Basques.

Although Palestinian self-determination is equally justified, the connection between demonizing Israelis and sanctifying Palestinians makes it clear that the core issue is not the stated cause of Palestinian suffering. For there are no U.N. resolutions deploring the practice of encouraging Palestinian children to glorify and emulate suicide bombers, or the use of the Palestinian population as human shields, or the refusal by the vast majority of Arab states to integrate Palestinian refugees into their societies and to offer them the benefits of citizenship. Palestinians are lionized at the U.N. because they are the perceived antidote to what U.N. envoy Lakhdar Brahimi called the great poison of the Middle East—the existence and resilience of the Jewish state.

Of course, anti-Semitism takes other forms at the U.N. Over the past decade at the commission, Syria announced that yeshivas train rabbis to instill racist hatred in their pupils. Palestinian representatives claimed that Israelis can happily celebrate religious holidays like Yom Kippur only by shedding Palestinian blood, and accused Israel of injecting 300 Palestinian children with HIV-positive blood.

U.N.-led anti-Semitism moves from the demonization of Jews to the disqualification of Jewish victimhood: refusing to recognize Jewish suffering by virtue of their ethnic and national identity. In 2003, a General Assembly resolution concerned with the welfare of Israeli children failed (though one on Palestinian children passed handily) because it proved impossible to gain enough support for the word Israeli appearing before the word children. The mandate of the U.N. special rapporteur on the ''Palestinian territories,'' set over a decade ago, is to investigate only ''Israel's violations of . . . international law'' and not to consider human-rights violations by Palestinians in Israel.

It follows in U.N. logic that nonvictims aren't really supposed to fight back. One after another concrete Israeli response to terrorism is denounced by the secretary-general and member states as illegal. But killing members of the command-and-control structure of a terrorist organization, when there is no disproportionate use of force, and arrest is impossible, is not illegal. Homes used by terrorists in the midst of combat are legitimate military targets. A nonviolent, temporary separation of parties to a conflict on disputed territory by a security fence, which is sensitive to minimizing hardships, is a legitimate response to Israel's international legal obligations to protect its citizens from crimes against humanity. In effect, the U.N. moves to pin the arms of Jewish targets behind their backs while the terrorists take aim.

The U.N.'s preferred imagery for this phenomenon is of a cycle of violence. It is claimed that the cycle must be broken—every time Israelis raises a hand. But just as the symbol of the cycle is chosen because it has no beginning, it is devastating to the cause of peace because it denies the possibility of an end. The Nuremberg Tribunal taught us that crimes are not committed by abstract entities.

The perpetrators of anti-Semitism today are the preachers in mosques who exhort their followers to blow up Jews. They are the authors of Palestinian Authority textbooks that teach a new generation to hate Jews and admire their killers. They are the television producers and official benefactors in authoritarian regimes like Syria or Egypt who manufacture and distribute programming that depicts Jews as bloodthirsty world conspirators.

Listen, however, to the words of the secretary-general in response to two suicide bombings which took place in Jerusalem this year, killing 19 and wounding 110: ''Once again, violence and terror have claimed innocent lives in the Middle East. Once again, I condemn those who resort to such methods.'' ''The Secretary General condemns the suicide bombing Sunday in Jerusalem. The deliberate targeting of civilians is a heinous crime and cannot be justified by any cause.'' Refusing to name the perpetrators, Mr. Secretary-General, Teflon terrorism, is a green light to strike again.

Perhaps more than any other, the big lie that fuels anti-Semitism today is the U.N.-promoted claim that the root cause of the Arab-Israeli conflict is the occupation of Palestinian land. According to U.N. revisionism, the occupation materialized in a vacuum. In reality, Israel occupies land taken in a war which was forced upon it by neighbors who sought to destroy it. It is a state of occupation which Israelis themselves have repeatedly sought to end through negotiations over permanent borders. It is a state in which any abuses are closely monitored by Israel's independent judiciary. But ultimately, it is a situation which is the responsibility of the rejectionists of Jewish self-determination among Palestinians and their Arab and Muslim brethren—who have rendered the Palestinian civilian population hostage to their violent and anti-Semitic ambitions.

There are those who would still deny the existence of anti-Semitism at the U.N. by pointing to a range of motivations in U.N. corridors including commercial interests, regional politics, preventing scrutiny of human rights violations closer to home, or enhancement of individual careers. U.N. actors and supporters remain almost uniformly in denial of the nature of the pathogen coursing through these halls. They ignore the infection and applaud the host, forgetting that the cancer which kills the organism will take with it both the good and the bad.

The relative distribution of naiveté, cowardice, opportunism, and anti-Semitism, however, matters little to Noam and Matan Ohayon, ages 4 and 5, shot to death through their mother's body in their home in northern Israel while she tried to shield them from a gunman of Yasser Arafat's al-Aqsa Martyrs Brigades. The terrible consequences of these combined motivations mobilized and empowered within U.N. chambers are the same.

The inability of the U.N. to confront the corruption of its agenda dooms this organization's success as an essential agent of equality or dignity or democratization.

This conference may serve as a turning point. We will only know if concrete changes occur hereafter: a General Assembly resolution on anti-Semitism adopted, an annual report on anti-Semitism forthcoming, a focal point on anti-Semitism created, a rapporteur on anti-Semitism appointed.

But I challenge the secretary-general and his organization to go further—if they are serious about eradicating anti-Semitism:

a. Start putting a name to the terrorists that kill Jews because they are Jews.

b. Start condemning human-rights violators wherever they dwell—even if they live in Riyadh or Damascus.

c. Stop condemning the Jewish people for fighting back against their killers.

d. And the next time someone asks you or your colleagues to stand for a moment of silence to honor those who would destroy the state of Israel, say no. Only then will the message be heard from these chambers that the U.N. will not tolerate anti-Semitism or its consequences against Jews and the Jewish people, whether its victims live in Tehran, Paris or Jerusalem.

Ms. Bayefsky is a senior fellow at the Hudson Institute and an adjunct professor at Columbia University Law School.

EXHIBIT 5

A VIEW FROM THE EYE OF THE STORM

(Talk delivered by Haim Harari at a meeting of the International Advisory Board of a large multi-national corporation, April, 2004)

As you know, I usually provide the scientific and technological ''entertainment'' in our meetings, but, on this occasion, our Chairman suggested that I present my own personal view on events in the part of the world from which I come. I have never been and I will never be a Government official and I have no privileged information. My perspective is entirely based on what I see, on what I read and on the fact that my family has lived in this region for almost 200 years. You may regard my views as those of the proverbial taxi driver, which you are supposed to question, when you visit a country.

I could have shared with you some fascinating facts and some personal thoughts about the Israeli-Arab conflict. However, I will touch upon it only in passing. I prefer to devote most of my remarks to the broader picture of the region and its place in world events. I refer to the entire area between Pakistan and Morocco, which is predominantly Arab, predominantly Moslem, but includes many non-Arab and also significant non-Moslem minorities.

Why do I put aside Israel and its own immediate neighborhood? Because Israel and any problems related to it, in spite of what you might read or hear in the world media, is not the central issue, and has never been the central issue in the upheaval in the region. Yes, there is a 100-year-old Israeli-Arab conflict, but it is not where the main show is. The millions who died in the Iran-Iraq war had nothing to do with Israel. The mass murder happening right now in Sudan, where the Arab Moslem regime is massacring its black Christian citizens, has nothing to do with Israel. The frequent reports from Algeria about the murders of hundreds of civilians in one village or another by other Algerians have nothing to do with Israel. Saddam Hussein did not invade Kuwait, endanger Saudi Arabia and butcher his own people because of Israel. Egypt did not use poison gas against Yemen in the 60's because of Israel. Assad the Father did not kill tens of thousands of his own citizens in one week in El Hamma in Syria because of Israel. The Taliban control of Afghanistan and the civil war there had nothing to do with Israel. The Libyan blowing up of the Pan-Am flight had nothing to do with Israel, and I could go on and on and on.

The root of the trouble is that this entire Moslem region is totally dysfunctional, by any standard of the word, and would have been so even if Israel would have joined the Arab league and an independent Palestine would have existed for 100 years. The 22 member countries of the Arab league, from Mauritania to the Gulf States, have a total population of 300 millions, larger than the US and almost as large as the EU before its expansion. They have a land area larger than either the United States or all of Europe. These 22 countries, with all their oil and natural resources, have a combined GDP smaller than that of Netherlands plus Belgium and equal to half of the GDP of California alone. Within this meager GDP, the gaps between rich and poor are beyond belief and too many of the rich made their money not by succeeding in business, but by being corrupt rulers. The social status of women is far below what it was in the Western World 150 years ago. Human rights are below any reasonable standard, in spite of the grotesque fact that Libya was elected Chair of the U.N. Human Rights commission. According to a report prepared by a committee of Arab intellectuals and published under the auspices of the U.N., the number of books translated by the entire Arab world is much smaller than what little Greece alone translates. The total number of scientific publications of 300 million Arabs is less than that of 6 million Israelis. Birth rates in the region are very high, increasing the poverty, the social gaps and the cultural decline. And all of this is happening in a region, which only 30 years ago, was believed to be the next wealthy part of the world, and in a Moslem area, which developed, at some point in history, one of the most advanced cultures in the world.

It is fair to say that this creates an unprecedented breeding ground for cruel dictators, terror networks, fanaticism, incitement, suicide murders and general decline. It is also a fact that almost everybody in the region blames this situation on the United States, on Israel, on Western Civilization, on Judaism and Christianity, on anyone and anything, except themselves.

Do I say all of this with the satisfaction of someone discussing the failings of his enemies? On the contrary, I firmly believe that the world would have been a much better place and my own neighborhood would have been much more pleasant and peaceful, if things were different.

I should also say a word about the millions of decent, honest, good people who are either devout Moslems or are not very religious but grew up in Moslem families. They are double victims of an outside world, which now develops Islamophobia and of their own environment, which breaks their heart by being totally dysfunctional. The problem is that the vast silent majority of these Moslems are not part of the terror and of the incitement but they also do not stand up against it. They become accomplices, by omission, and this applies to political leaders, intellectuals, business people and many others. Many of them can certainly tell right from wrong, but are afraid to express their views.

The events of the last few years have amplified four issues, which have always existed, but have never been as rampant as in the present upheaval in the region. These are the four main pillars of the current World Conflict, or perhaps we should already refer to it as ''the undeclared World War III''. I have no better name for the present situation. A few more years may pass before everybody acknowledges that it is a World War, but we are already well into it.

The first element is the suicide murder. Suicide murders are not a new invention but they have been made popular, if I may use this expression, only lately. Even after September 11, it seems that most of the Western World does not yet understand this weapon. It is a very potent psychological weapon. Its real direct impact is relatively minor. The total number of casualties from hundreds of suicide murders within Israel in the last three years is much smaller than those due to car accidents. September 11 was quantitatively much less lethal than many earthquakes. More people die from AIDS in one day in Africa than all the Russians who died in the hands of Chechnya-based Moslem suicide murderers since that conflict started. Saddam killed every month more people than all those who died from suicide murders since the Coalition occupation of Iraq.

So what is all the fuss about suicide killings? It creates headlines. It is spectacular. It is frightening. It is a very cruel death with bodies dismembered and horrible severe lifelong injuries to many of the wounded. It is always shown on television in great detail. One such murder, with the help of hysterical media coverage, can destroy the tourism industry of a country for quite a while, as it did in Bali and in Turkey.

But the real fear comes from the undisputed fact that no defense and no preventive measures can succeed against a determined suicide murderer. This has not yet penetrated the thinking of the Western World. The U.S. and Europe are constantly improving their defense against the last murder, not the next one. We may arrange for the best airport security in the world. But if you want to murder by suicide, you do not have to board a plane in order to explode yourself and kill many people. Who could stop a suicide murder in the midst of the crowded line waiting to be checked by the airport metal detector? How about the lines to the check-in counters in a busy travel period? Put a metal detector in front of every train station in Spain and the terrorists will get the buses. Protect the buses and they will explode in movie theaters, concert halls, supermarkets, shopping malls, schools and hospitals. Put guards in front of every concert hall and there will always be a line of people to be checked by the guards and this line will be the target, not to speak of killing the guards themselves. You can somewhat reduce your vulnerability by preventive and defensive measures and by strict border controls but not eliminate it and definitely not win the war in a defensive way. And it is a war!

What is behind the suicide murders? Money, power and cold-blooded murderous incitement, nothing else. It has nothing to do with true fanatic religious beliefs. No Moslem preacher has ever blown himself up. No son of an Arab politician or religious leader has ever blown himself. No relative of anyone influential has done it. Wouldn't you expect some of the religious leaders to do it themselves, or to talk their sons into doing it, if this is truly a supreme act of religious fervor? Aren't they interested in the benefits of going to Heaven? Instead, they send outcast women, naive children, retarded people and young incited hotheads. They promise them the delights, mostly sexual, of the next world, and pay their families handsomely after the supreme act is performed and enough innocent people are dead.

Suicide murders also have nothing to do with poverty and despair. The poorest region in the world, by far, is Africa. It never happens there. There are numerous desperate people in the world, in different cultures, countries and continents. Desperation does not provide anyone with explosives, reconnaissance and transportation. There was certainly more despair in Saddam's Iraq then in Paul Bremmer's Iraq, and no one exploded himself. A suicide murder is simply a horrible, vicious weapon of cruel, inhuman, cynical, well-funded terrorists, with no regard to human life, including the fife of their fellow countrymen, but with very high regard to their own affluent well-being and their hunger for power.

The only way to fight this new ''popular'' weapon is identical to the only way in which you fight organized crime or pirates on the high seas: the offensive way. Like in the case of organized crime, it is crucial that the forces on the offensive be united and it is crucial to reach the top of the crime pyramid. You cannot eliminate organized crime by arresting the little drug dealer in the street corner. You must go after the head of the ''Family''.

If part of the public supports it, others tolerate it, many are afraid of it and some try to explain it away by poverty or by a miserable childhood, organized crime will thrive and so will terrorism. The United States understands this now, after September 11. Russia is beginning to understand it. Turkey understands it well. I am very much afraid that most of Europe still does not understand it. Unfortunately, it seems that Europe will understand it only after suicide murders will arrive in Europe in a big way. In my humble

opinion, this will definitely happen. The Spanish trains and the Istanbul bombings are only the beginning. The unity of the Civilized World in fighting this horror is absolutely indispensable. Until Europe wakes up, this unity will not be achieved.

The second ingredient is words, more precisely lies. Words can be lethal. They kill people. It is often said that politicians, diplomats and perhaps also lawyers and business people must sometimes lie, as part of their professional life. But the norms of politics and diplomacy are childish, in comparison with the level of incitement and total absolute deliberate fabrications, which have reached new heights in the region we are talking about. An incredible number of people in the Arab world believe that September 11 never happened, or was an American provocation or, even better, a Jewish plot.

You all remember the Iraqi Minister of Information, Mr. Mouhamad Said al-Sahaf and his press conferences when the US forces were already inside Baghdad. Disinformation at time of war is an accepted tactic. But to stand, day after day, and to make such preposterous statements, known to everybody to be lies, without even being ridiculed in your own milieu, can only happen in this region. Mr. Sahaf eventually became a popular icon as a court jester, but this did not stop some allegedly respectable newspapers from giving him equal time. It also does not prevent the Western press from giving credence, every day, even now, to similar liars. After all, if you want to be an anti-Semite, there are subtle ways of doing it. You do not have to claim that the holocaust never happened and that the Jewish temple in Jerusalem never existed. But millions of Moslems are told by their leaders that this is the case. When these same leaders make other statements, the Western media report them as if they could be true.

It is a daily occurrence that the same people, who finance, arm and dispatch suicide murderers, condemn the act in English in front of western TV cameras, talking to a world audience, which even partly believes them. It is a daily routine to hear the same leader making opposite statements in Arabic to his people and in English to the rest of the world. Incitement by Arab TV, accompanied by horror pictures of mutilated bodies, has become a powerful weapon of those who lie, distort and want to destroy everything. Little children are raised on deep hatred and on admiration of so-called martyrs, and the Western World does not notice it because its own TV sets are mostly tuned to soap operas and game shows. I recommend to you, even though most of you do not understand Arabic, to watch Al Jazeera, from time to time. You will not believe your own eyes.

But words also work in other ways, more subtle. A demonstration in Berlin, carrying banners supporting Saddam's regime and featuring three-year old babies dressed as suicide murderers, is defined by the press and by political leaders as a ''peace demonstration''. You may support or oppose the Iraq war, but to refer to fans of Saddam, Arafat or Bin Laden as peace activists is a bit too much. A woman walks into an Israeli restaurant in mid-day, eats, observes families with old people and children eating their lunch in the adjacent tables and pays the bill. She then blows herself up, killing 20 people, including many children, with heads and arms rolling around in the restaurant. She is called ''martyr'' by several Arab leaders and ''activist'' by the European press. Dignitaries condemn the act but visit her bereaved family and the money flows.

There is a new game in town: The actual murderer is called ''the military wing'', the one who pays him, equips him and sends him is now called ''the political wing'' and the head of the operation is called the ''spiritual leader''. There are numerous other examples of such Orwellian nomenclature, used every day not only by terror chiefs but also by Western media. These words are much more dangerous than many people realize. They provide an emotional infrastructure for atrocities. It was Joseph Goebels who said that if you repeat a lie often enough, people will believe it. He is now being outperformed by his successors.

The third aspect is money. Huge amounts of money, which could have solved many social problems in this dysfunctional part of the world, are channeled into three concentric spheres supporting death and murder. In the inner circle are the terrorists themselves. The money funds their travel, explosives, hideouts and permanent search for soft vulnerable targets. They are surrounded by a second wider circle of direct supporters, planners, commanders, preachers, all of whom make a living, usually a very comfortable living, by serving as terror infrastructure. Finally, we find the third circle of so-called religious, educational and welfare organizations, which actually do some good, feed the hungry and provide some schooling, but brainwash a new generation with hatred, lies and ignorance. This circle operates mostly through mosques, madrasas and other religious establishments but also through inciting electronic and printed media. It is this circle that makes sure that women remain inferior, that democracy is unthinkable and that exposure to the outside world is minimal. It is also that circle that leads the way in blaming everybody outside the Moslem world, for the miseries of the region.

Figuratively speaking, this outer circle is the guardian, which makes sure that the people look and listen inwards to the inner circle of terror and incitement, rather than to the world outside. Some parts of this same outer circle actually operate as a result of fear from, or blackmail by, the inner circles. The horrifying added factor is the high birth rate. Half of the population of the Arab world is under the age of 20, the most receptive age to incitement, guaranteeing two more generations of blind hatred.

Of the three circles described above, the inner circles are primarily financed by terrorist states like Iran and Syria, until recently also by Iraq and Libya and earlier also by some of the Communist regimes. These states, as well as the Palestinian Authority, are the safe havens of the wholesale murder vendors. The outer circle is largely financed by Saudi Arabia, but also by donations from certain Moslem communities in the United States and Europe and, to a smaller extent, by donations of European Governments to various NGO's and by certain United Nations organizations, whose goals may be noble, but they are infested and exploited by agents of the outer circle. The Saudi regime, of course, will be the next victim of major terror, when the inner circle will explode into the outer circle. The Saudis are beginning to understand it, but they fight the inner circles, while still financing the infrastructure at the outer circle.

Some of the leaders of these various circles live very comfortably on their loot. You meet their children in the best private schools in Europe, not in the training camps of suicide murderers. The Jihad ''soldiers'' join packaged death tours to Iraq and other hotspots, while some of their leaders ski in Switzerland. Mrs. Arafat, who lives in Paris with her daughter, receives tens of thousands dollars per month from the allegedly bankrupt Palestinian Authority while a typical local ringleader of the Al-Aksa brigade, reporting to Arafat, receives only a cash payment of a couple of hundred dollars, for performing murders at the retail level.

The fourth element of the current world conflict is the total breaking of all laws. The civilized world believes in democracy, the rule of law, including international law, human rights, free speech and free press, among other liberties. There are naive old-fashioned habits such as respecting religious sites and symbols, not using ambulances and hospitals for acts of war, avoiding the mutilation of dead bodies and not using children as human shields or human bombs. Never in history, not even in the Nazi period, was there such total disregard of all of the above as we observe now. Every student of political science debates how you prevent an anti-democratic force from winning a democratic election and abolishing democracy. Other aspects of a civilized society must also have limitations. Can a policeman open fire on someone trying to kill him? Can a government listen to phone conversations of terrorists and drug dealers? Does free speech protects you when you shout ''fire'' in a crowded theater? Should there be death penalty, for deliberate multiple murders? These are the oldfashioned dilemmas. But now we have an entire new set.

Do you raid a mosque, which serves as a terrorist ammunition storage? Do you return fire, if you are attacked from a hospital? Do you storm a church taken over by terrorists who took the priests hostages? Do you search every ambulance after a few suicide murderers use ambulances to reach their targets? Do you strip every woman because one pretended to be pregnant and carried a suicide bomb on her belly? Do you shoot back at someone trying to kill you, standing deliberately behind a group of children? Do you raid terrorist headquarters, hidden in a mental hospital? Do you shoot an arch-murderer who deliberately moves from one location to another, always surrounded by children? All of these happen daily in Iraq and in the Palestinian areas. What do you do? Well, you do not want to face the dilemma. But it cannot be avoided.

Suppose, for the sake of discussion, that someone would openly stay in a wellknown address in Teheran, hosted by the Iranian Government and financed by it, executing one atrocity after another in Spain or in France, killing hundreds of innocent people, accepting responsibility for the crimes, promising in public TV interviews to do more of the same, while the Government of Iran issues public condemnations of his acts but continues to host him, invite him to official functions and treat him as a great dignitary. I leave it to you as homework to figure out what Spain or France would have done, in such a situation.

The problem is that the civilized world is still having illusions about the rule of law in a totally lawless environment. It is trying to play ice hockey by sending a ballerina ice-skater into the rink or to knock out a heavyweight boxer by a chess player. In the same way that no country has a law against cannibals eating its prime minister, because such an act is unthinkable, international law does not address killers shooting from hospitals, mosques and ambulances, while being protected by their Government or society. International law does not know how to handle someone who sends children to throw stones, stands behind them and shoots with immunity and cannot be arrested because he is sheltered by a Government. International law does not know how to deal with a leader of murderers who is royally and comfortably hosted by a country, which pretends to condemn his acts or just claims to be too weak to arrest him. The amazing thing is that all of these crooks demand protection under international law and define all those who attack them as war criminals, with some Western media repeating the allegations.

The good news is that all of this is temporary, because the evolution of international law has always adapted itself to reality. The punishment for suicide murder should be death or arrest before the murder, not during and not after. After every world war, the rules of international law have changed and the same will happen after the present one. But during the twilight zone, a lot of harm can be done.

The picture I described here is not pretty. What can we do about it? In the short run, only fight and win. In the long run—only educate the next generation and open it to the world. The inner circles can and must be destroyed by force. The outer circle cannot be eliminated by force. Here we need financial starvation of the organizing elite, more power to women, more education, counter propaganda, boycott whenever feasible and access to Western media, internet and the international scene. Above all, we need a total absolute unity and determination of the civilized world against all three circles of evil.

Allow me, for a moment, to depart from my alleged role as a taxi driver and return to science. When you have a malignant tumor, you may remove the tumor itself surgically. You may also starve it by preventing new blood from reaching it from other parts of the body, thereby preventing new ''supplies'' from expanding the tumor. If you want to be sure, it is best to do both.

But before you fight and win, by force or otherwise, you have to realize that you are in a war, and this may take Europe a few more years. In order to win, it is necessary to first eliminate the terrorist regimes, so that no Government in the world will serve as a safe haven for these people. I do not want to comment here on whether the American-led attack on Iraq was justified from the point of view of weapons of mass destruction or any other pre-war argument, but I can look at the post-war map of Western Asia. Now that Afghanistan, Iraq and Libya are out, two and a half terrorist states remain: Iran, Syria and Lebanon, the latter being a Syrian colony. Perhaps Sudan should be added to the list. As a result of the conquest of Afghanistan and Iraq, both Iran and Syria are now totally surrounded by territories unfriendly to them. Iran is encircled by Afghanistan, by the Gulf States, Iraq and the Moslem republics of the former Soviet Union. Syria is surrounded by Turkey, Iraq, Jordan and Israel. This is a significant strategic change and it applies strong pressure on the terrorist countries. It is not surprising that Iran is so active in trying to incite a Shiite uprising in Iraq. I do not know if the American plan was actually to encircle both Iran and Syria, but that is the resulting situation.

In my humble opinion, the number one danger to the world today is Iran and its regime. It definitely has ambitions to rule vast areas and to expand in all directions. It has an ideology, which claims supremacy over Western culture. It is ruthless. It has proven that it can execute elaborate terrorist acts without leaving too many traces, using Iranian Embassies. It is clearly trying to develop Nuclear Weapons. Its so-called moderates and conservatives play their own virtuoso version of the ''good-cop versus bad-cop'' game. Iran sponsors Syrian terrorism, it is certainly behind much of the action in Iraq, it is fully funding the Hizbulla and, through it, the Palestinian Hamas and Islamic Jihad, it performed acts of terror at least in Europe and in South America and probably also in Uzbekhistan and Saudi Arabia and it truly leads a multi-national terror consortium, which includes, as minor players, Syria, Lebanon and certain Shiite elements in Iraq. Nevertheless, most European countries still trade with Iran, try to appease it and refuse to read the clear signals.

In order to win the war it is also necessary to dry the financial resources of the terror conglomerate. It is pointless to try to understand the subtle differences between the Sunni terror of Al Qaida and Hamas and the Shiite terror of Hizbulla, Sadr and other Iranian inspired enterprises. When it serves their business needs, all of them collaborate beautifully.

It is crucial to stop Saudi and other financial support of the outer circle, which is the fertile breeding ground of terror. It is important to monitor all donations from the Western World to Islamic organizations, to monitor the finances of international relief organizations and to react with forceful economic measures to any small sign of financial aid to any of the three circles of terrorism. It is also important to act decisively against the campaign of lies and fabrications and to monitor those Western media who collaborate with it out of naivety, financial interests or ignorance.

Above all, never surrender to terror. No one will ever know whether the recent elections in Spain would have yielded a different result, if not for the train bombings a few days earlier. But it really does not matter. What matters is that the terrorists believe that they caused the result and that they won by driving Spain out of Iraq. The Spanish story will surely end up being extremely costly to other European countries, including France, who is now expelling inciting preachers and forbidding veils and including others who sent troops to Iraq. In the long run, Spain itself will pay even more.

Is the solution a democratic Arab world? If by democracy we mean free elections but also free press, free speech, a functioning judicial system, civil liberties, equality to women, free international travel, exposure to international media and ideas, laws against racial incitement and against defamation, and avoidance of lawless behavior regarding hospitals, places of worship and children, then yes, democracy is the solution. If democracy is just free elections, it is likely that the most fanatic regime will be elected, the one whose incitement and fabrications are the most inflammatory. We have seen it already in Algeria and, to a certain extent, in Turkey. It will happen again, if the ground is not prepared very carefully. On the other hand, a certain transition democracy, as in Jordan, may be a better temporary solution, paving the way for the real thing, perhaps in the same way that an immediate sudden democracy did not work in Russia and would not have worked in China.

I have no doubt that the civilized world will prevail. But the longer it takes us to understand the new landscape of this war, the more costly and painful the victory will be. Europe, more than any other region, is the key. Its understandable recoil from wars, following the horrors of World War II, may cost thousands of additional innocent lives, before the tide will turn.

Mr. LAUTENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. COLLINS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGE TO THE AMERICAN PEOPLE

Mr. LAUTENBERG. Madam President, I, like millions of Americans, see what is happening on television, listen to what is happening on radio, and hear campaign commercials that are being submitted on a fairly regular basis. I listen to them and wonder, what is the message to our country? What is being said? What is the message we want to give to the American people? What do we want to tell them about our concern for their needs? Do we want to talk about lower prices for prescription drugs? Do we want to talk about educating our children? Do we want to talk about health care generally? Do we want to talk about bringing the troops home? Do we say enough is enough?

When we look at the record and see what is happening, the killing continues in Iraq. Since we have gone over to an Iraqi interim government, the rate of death has not diminished from the time before we turned this government over to the Iraqi interim government.

Today, we heard news of a terrible explosion that killed a bunch of Iraqis and injured American soldiers. The toll continues to mount. I believe the American people are concerned about that. I hear it from parents who say: My son's term has been extended. He thought he would be home by now. Now he has to serve 3 more months. Or, my daughter has to stay there far longer than she expected. Not only are they emotionally torn apart, not only are there family problems from the absence of dad or the absence of mom from the household, but financially it is a disaster.

I have tried to get an amendment. I tried to put it on the Defense appropriations bill, but I couldn't get the amendment attached. They said no, we don't want to give $2,000 a month more for these people for the 3 months more they have to serve; $6,000 total cost; maybe $150 million out of a budget of $400 billion, and we couldn't get an ear to listen to it here. We couldn't get the majority to pay attention.

The job market is not robust. We are still at a loss for the number of jobs we have available since this administration took over. When do we put these people to work? When do we stop shipping jobs abroad? When do we deal with the problems that concern everyday citizens? When do we deal with the cost of gasoline, which is up 50 percent almost in the last year?

What we hear in response to those problems are campaign commercials—$8 million of them in recent weeks. We hear that JOHN KERRY has missed two-thirds of the votes that have been taken here in the U.S. Senate. We do not hear anybody saying JOHN KERRY served bravely in Vietnam when he disagreed with the policy of his country, but he felt loyal enough and obliged enough and went ahead and got wounded three times. He got three Purple Hearts. I served in the Army 3 years. I didn't earn one, but I know what a Purple Heart means in recognition of bravery; a Silver Star, very high-ranking

medal; a Bronze Star, an important recognition of bravery on the battlefield. And we want to hear talk about how he has missed these votes.

Yes, I am a Member of the Senate and am proud of it. I am proud of my voting record. But I am also proud of the contribution JOHN KERRY is trying to make to this country.

We ought to talk about comparing service to country, President Bush's service and Senator JOHN KERRY's service. Compare the two. Start with Vietnam. See what happened there, when President Bush had an opportunity to avoid regular service by going to the Air Guard, which he didn't really do anything with. But to criticize Senator JOHN KERRY for his contribution to our country by pointing out the fact that he has missed a bunch of votes, that he found time to vote against the Laci Peterson amendment which was offered here, and that he missed other votes—talk about the platforms of these two, talk about what JOHN KERRY is saying we have to do about jobs, about getting a coalition to help us deal with Iraq to try to strengthen our resources there.

President Bush's decision, along with his Cabinet, the Secretary of Defense, and the Vice President, was that General Shinseki was all wrong when he said we have to have 300,000 people in Iraq. They fired him. They got rid of him. They don't want to hear dissent and difference. They don't want to hear it. They don't want the public to hear what JOHN KERRY has done for his country. No. They want to hear that he missed votes. It is too bad that he missed votes, but he is on a larger mission. He wants a change in the direction of this country. He is not here at times when he is out there delivering messages to which people respond.

Just look at the gatherings. We see people for Senator KERRY and Senator EDWARDS. They are thirsty for information that affects their everyday lives. They do not sit around the dinner table talking about how much time we are spending—not enough time, they might say—on gay marriage and a constitutional amendment. I don't think Mr. and Mrs. Working American are sitting around their table praying for the moment that an amendment to the Constitution will be put in place where we can challenge the rights of a particular group of people when we haven't gotten our appropriations bills in place; we haven't voted on moving homeland security resources along not funding these things. No, but we can spend days here.

By the way, we may have set a record for quorum calls. We have spent a lot of time with two lights on. That should tell the American people that there is nothing going on in here. We have had one vote this week, and the prospects for another vote are not very bright. What an exhausting schedule, two, three votes, possibly five votes in a week. Come on.

Please, Mr. President, clear your message, talk about the things the American people are concerned about. Talk about how we get our kids home from Iraq, talk about how we get our former allies into the mix so they can help share the burden. That is what we want to hear.

We do not want to hear only critical comments about JOHN KERRY because then you force us to compare the two records. If I were President Bush, I would hide from the record. If they want to compare President Bush's record to Senator JOHN KERRY's record of service to country, we would have quite a revelation for the people in this country.

Spending millions on commercials to denigrate Senator JOHN KERRY, a war hero, a volunteer, who went to Vietnam—go there, do your duty, pull a guy out of the water whose life may be hanging in the balance, under gunfire. Pull this man out of the water.

I have campaigned with one of his former swift boat colleagues. If you heard the praise that he gave to LTG JOHN KERRY for his leadership. But we do not want to talk about that. We want to try to subdue it with sneering commentaries about how he missed a vote and flip-flopped.

I wish President Bush would look at some of the decisions he made and flip them. One of them I tried to pass was to have flag-draped coffins, the respect that they earn. People who gave their lives on behalf of the country's mission, when they come back to Dover, DE, where the coffins are deposited, and we say no, the media cannot show those coffins because that would alert people to the penalties of war, to the punishment that families endure. We do not want that. Hide it from the public. Don't let them understand what the cost of war is.

They criticize Senator JOHN KERRY, loyal American, who served his duty, served it well, served it here. Look at his voting record before he ran for President of the United States. Look at the President's tours for fundraising and political gatherings. He goes on Air Force One and the only cost—and this 747 is a beautiful airplane; most of America has seen it—all that has to be paid is the cost of the first-class transportation on a commercial airliner. Take this huge airplane, lift it into the sky and say: Well, we will reimburse it because we used it for fundraising or for political campaigns.

Mr. President, change your tune. Let's hear your view on what America has to have to satisfy the needs of our constituents. Please, you have gone too far with this character abuse, with this character assassination. You have gone too far.

Look at the American people. Look them in the eye and say, yes, I, President George Bush, approve of this message, and give a positive message about when drug prices are coming down, about how we will fund Head Start for 300,000 children who will now be dropped, or other programs that are talked about but not funded. Please, Mr. President, speak up on behalf of the people in America so we can build strength, so we can have some harmony and not the divisive attitude we find prevailing.

It is not fair to the American people. When we deny a hero's recognition, we do something far worse. It was done in the State of Georgia in a senatorial election recently. A fellow named Max Cleland, with whom we served, and whom we all felt very close to, lost three limbs in Vietnam. They managed to paint him in a somewhat cowardly fashion, that he was soft on defense. One arm missing, half of one arm missing, two legs missing. It takes him 2 hours to get out of bed in the morning, and they made him look like he was soft on defense. What a disgrace. The American people have to look at that.

And now the game is to denigrate JOHN KERRY's record to make him look as if he is just absent and not doing anything worthwhile. He and Senator EDWARDS are trying to put this country on the right path. The voters will decide, by the way. But we ought to let the record be out there so that everybody knows what each of the parties is doing.

Enough, Mr. President. Please change the tone of your commercials. It is not fair to have an airplane in the sky saying: Senator JOHN KERRY, if he had his choice, would have voted against the interests of the troops. It is a foul lie, that is what it is, not true at all. If a vote was made, it was made in the context of an entire amendment. It was not made simply to take money away from our serving troops. President Bush knows that.

I wish he would change his tone. It does not ring properly for the President. It does not become the President of the United States to be looking at Senator JOHN KERRY's record and make jokes about his attendance, about his flip-flop. No, no, no, look at the things he has done. We can all pick out the blemishes of the other, but that is no way to run a country. That is the way to run a schoolyard fight. It does not become the President of the United States.

I yield the floor, but I hope President Bush will change his tone.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Pennsylvania.

IN MEMORY OF CAREY LACKMAN SLEASE

Mr. SPECTER. Mr. President, I have sought recognition to inform the Senate family of the passing of Carey Anne Lackman Slease, my chief of staff, who passed this morning at 5:30 a.m.

During the course of the day, my office staff and I have been deluged with expressions of sympathy showing the very high regard and high esteem that she was held in by our Senate family.

She was afflicted with the terrible problem of breast cancer. She had a long, lingering illness. She received the very best of modern day medicine with the assistance of the National Institutes of Health. My deputy, Bettilou

Taylor, who handles the Subcommittee on Labor, Health, Human Services and Education, has had extensive contact with the National Institutes of Health. When I saw Carey last night, less than 24 hours ago, she had expressed her gratitude for the kind of care which she had received.

She said, in her own words, she had a good run and she was understanding and at peace with herself as she knew her imminent fate.

She had left the hospital shortly after being married to her sweetheart, Clyde Slease, III, on Saturday. We have a beautiful set of wedding photographs, a clear remembrance of her from just a few days ago. And she came home, setting up a hospice, in effect, in her home.

As I say, when I saw her yesterday, she was reconciled and at peace with herself, and considering the circumstances, as composed and as brave and as resolute as any human being could be. She said she was advised that it was a matter of a few days or a week or two. She was taken this morning, as I say, at 5:30.

Her life was really the U.S. Senate. She graduated from Radford University. She was the oldest daughter of a retired colonel, William F. Lackman. She is survived by three sisters and three brothers—a large family of seven children—and her mother.

She came to the Senate family at the age of 24, and she spent most of the remaining half of her life in the Senate, dying at the age of 48. She was a legislative assistant to Senator John Heinz from 1979 to 1985. She then founded her own firm in Los Angeles for a period of 6 years. She then came back to work for me in the early 1990s. Except for a very short stint, again, with her own firm in biotech in the public sector, she was on my staff, coming back to work for me some 2½ years ago in December 2001, when called to active duty.

She did an extraordinary job for me. She was beautiful in many ways: a statuesque blonde, an amiable personality. She worked well with her colleagues. She worked well with the young staff. She was a mentor. She was very accomplished, brilliant, studious, analytical, and handled the substantive problems of the office with aplomb, dignity, and efficiency.

She was one of the first women to be chief of staff in the U.S. Senate. She was acclaimed by PoliticsPA as one of Pennsylvania's most politically powerful women.

She had an extraordinary career, regrettably cut short by her untimely passing at the age of 48.

Funeral services will be held in Middleburg, VA, on Friday at 10 a.m., with a viewing tomorrow evening.

She has made quite an impact in many realms of her professional pursuits, but really most of all in the U.S. Senate, where she had made so many friends and was held in such very high regard, really beloved by the Senate family.

So it is a sad occasion for the entire Senate family, but most of all for her colleagues in my office and for me to note her passing at the very tender age of 48.

Senator SANTORUM was in the chamber and wanted to speak but could not wait until the other speakers had concluded.

I thank the Chair and, in the absence of any Senator seeking recognition, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

## UNANIMOUS CONSENT AGREEMENT—H.R. 4520

Mr. FRIST. Mr. President, in a few moments I will be propounding a unanimous consent request that we can comment on afterwards. It reflects a number of negotiations and back and forth between both sides of the aisle that have gone on for several weeks, but aggressively and intensively over the last 8 to 9 hours.

I ask unanimous consent that on Thursday, July 15, immediately following morning business, the pending motion to proceed be withdrawn and the majority leader or his designee be recognized in order to move to proceed to Calendar No. 591, H.R. 4520; provided further that the motion be agreed to and that Chairman GRASSLEY then be immediately recognized in order to offer S. 1637, as passed by the Senate, as a substitute amendment; provided further that Senator DEWINE be recognized in order to offer a DeWine-Kennedy first-degree amendment relating to the FDA and tobacco; further, that no other amendments be in order to the bill and that there be 3 hours for debate equally divided in the usual form; I further ask consent that following the debate, the Senate proceed to a vote in relation to the amendment at a time determined by the majority leader after consultation with the Democratic leader and that immediately following the disposition of that amendment, the substitute be agreed to, the bill then be read a third time, and the Senate proceed to a vote on passage of the bill with no intervening action or debate; I further ask consent that the Senate then insist on its amendment, request a conference with the House, and the Chair then be authorized to appoint conferees on the part of the Senate with a ratio of 12 to 11.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, what this means is we will be proceeding to conference on the FSC/ETI JOBS bill, a bill that overwhelmingly passed the Senate and passed the House of Representatives and that prior to proceeding to conference, we will have a vote tomorrow on a combined bill that has to do with the FDA and a tobacco buyout. That vote will follow up to 3 hours tomorrow. The vote will likely be tomorrow afternoon, although we will be debating the issue in the morning.

I am pleased. We all know that the FSC/ETI JOBS bill is a very important bill for the United States, for jobs and jobs creation. There is a certain time limit involved. In fact, every month that we wait, the Euro tax goes up 1 percent every month; it is 9 percent now. It is time to take this to conference and pass this bill.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I am pleased to join with the majority leader in announcing this agreement tonight. This has not been easy for anybody involved in these discussions. We are now prepared to proceed with, I think, a very good understanding about how we as Members of the Senate will present ourselves in the conference. I am very confident that we can reach a successful conclusion.

Mr. FRIST. I want to discuss with the Democratic Leader an approach that might enable us to move forward to conference on the JOBS bill, S. 1637. The Senate JOBS bill reflects overwhelming bipartisan support, passing by a margin of 92–5. Much work remains to be done on this bill and it is important we start as soon as possible.

There are significant differences with the House bill, so this is likely going to be a challenging process. I want to make sure that all Senators know that it is unrealistic to expect that the House will agree with all our provisions and that we will likely have to make changes to S. 1637.

But as we make those changes, we should make them together. The JOBS bill we passed was a model of bipartisan cooperation that was marked by good faith on both sides. And that is the essence of the agreement I am proposing—a commitment from both sides that they will work in good faith in the conference to get the best possible result. I have spoken to Senator GRASSLEY and he has agreed that he will not pursue a conclusion to the conference—nor sign any conference report—that would alter the text of S. 1637 in a way that undermines the broad bipartisan consensus S. 1637 achieved on final passage.

Mr. DASCHLE. I thank the Majority Leader for his leadership. I have discussed this with my colleagues and can commit wholeheartedly to the good faith process you have proposed. Our side understands that changes will have to be made to S. 1637; but, as they are made, these changes will be the result of the mutual agreement of the lead Senate conferees, as well as the Majority Leader and the Democratic Leader, acting in good faith.

By moving S. 1637 through the Senate, Senators GRASSLEY and BAUCUS have already demonstrated that they can make that process work. If the process should break down due to disagreements over either corporate tax policy or extraneous provisions, then we understand that such a conference report will not be brought to the floor.

Mr. FRIST. That is correct, so long as the Democratic conferees are acting in good faith. And I have every expectation they will. I agree that it is our mutual goal to reach a conference agreement that reflects the balance and broad bipartisan consensus S. 1637 achieved. That will be the test of good faith for both sides. I think we can do that, and we will not bring a bill to the Senate floor if it does not reflect that commitment. I want to thank the Democratic Leader for his leadership and willingness to address this process.

Mr. DASCHLE. Mr. President, I appreciate the majority leader's work in reaching the agreement and the good faith that I believe we need to demonstrate on a bipartisan basis to move forward. This accommodates the concerns on both sides. We have made some real progress. We have a lot of work to do. There are a lot of differences with the House. But I am confident that Democrats and Republicans are now in a position to work very closely together to come up with the best result.

There are no predetermined conclusions as to what the result may be, but we do this with a full appreciation of the need to work together to accomplish what is clearly a real opportunity to move forward on a jobs bill, on legislation that I believe is a must-pass piece of legislation prior to the time we adjourn for the year.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, I congratulate the majority leader and the Democratic leader for what I think is an excellent agreement made in good faith. It gives us a chance to pass one of the most important pieces of legislation that Congress will consider in the second session of the 108th Congress.

It has not been easy getting to this point. I wanted to say, particularly on behalf of those of us who represent States in which tobacco farmers are slowly having their assets stripped from them, that this agreement gives the buyout a chance. It doesn't guarantee an outcome, but it certainly gives the buyout a chance to be considered in conference. Getting to conference on this bill is a significant move in the right direction from the point of view of those of us who represent tobacco growers.

I thank the leaders for what I think is an excellent agreement to move this into conference and have a chance to pass a very important bill.

## MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MAKING A DIFFERENCE: DR. FRED CHOLICK

Mr. DASCHLE. Mr. President, more than 7,000 students and thousands of South Dakota farm and ranch families have been impacted through the leadership of one man: Dr. Fred Cholick.

Dr. Cholick has served South Dakota's No. 1 industry of agriculture for nearly a quarter of a century. He has been a teacher, a mentor and an advocate for expanded research. For the past 6 years, he has served as Dean of the College of Agriculture and Biological Sciences at South Dakota State University, a land grant university and South Dakota's largest educational institution.

He has earned a strong reputation nationally. Through his work, he caught the attention of Kansas State University, where he will become Dean of the College of Agriculture in Manhatten. It is a loss for my home state of South Dakota, but an incredible professional opportunity for Dr. Cholick.

When Dr. Cholick became Dean of the College of Agriculture and Biological Sciences in 1998, he instilled a motto for the college: ''Making a Difference.'' It was a bold statement that faculty embraced and, to those students who arrived on campus, it signaled the high expectations of the University and Dr. Cholick.

Dr. Cholick is an academic, but he has never been confined to a classroom or laboratory. He has traveled extensively throughout our expansive state, engaging in a constructive dialogue with farmers, ranchers and agri-business men and women. He understands that adapting to the changes in agriculture—brought about by a global economy, breakthroughs in technology and other factors—should be a collaborative effort.

While Dr. Cholick is a forceful spokesperson for agriculture, he is an equally good listener, taking in people's ideas and insights in a patient, thoughtful manner.

As a young professor and researcher from Oregon State University and Colorado State University, Dr. Cholick made a difference for South Dakota's farmers with his work on spring wheat varieties that can withstand the harsh weather of the Great Plains. He continued that commitment when he headed up the Plant Science Department, continually working to improve seed genetics to create more efficient and effective corn and soybean varieties.

South Dakota State University has been enriched by Dr. Cholick's service for 23 years. Beginning next month, he will continue his good work at Kansas State University.

I ask my colleagues to join me in saluting Dr. Cholick for his distinguished career and commitment to our Nation's land grant institutions.

## LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On September 30, 2003, in San Pablo, CA, Police Officers found a transgender hair stylist named Sindy Cuarda wearing a blouse and pants, bleeding heavily from several gunshot wounds in the driveway of a business in San Pablo. She was shot in the chest and genitals. Though police have not commented on the case, witnesses have said that it was motivated out of hate.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## ENSURING AMERICA'S COMPETITIVENESS

Mr. BINGAMAN. Mr. President, I have come to this floor several times in the last few months to discuss our country's future competitiveness in the global marketplace, which I consider to be a very serious subject. As a first step in tackling the challenges we are now facing, yesterday I introduced three bills that I feel will move us in the right direction. They will ensure a strong workforce that can handle the ever-changing world around it, and create more high tech job opportunities for this workforce by encouraging the development of science parks.

We have, as a nation, a significant negative trend to reverse. The United

States currently ranks fifteenth in the percentage of 18-to-24-year-olds who earn science and engineering degrees in their respective countries. This places us behind Taiwan and South Korea, Ireland and Italy among others. Less than thirty years ago, in 1975, the United States ranked third in the world in this respect. According to a new National Science Foundation report entitled ''An Emerging and Critical Problem of the Science and Engineering Labor Force'', the average age of the science and engineering workforce is rising, and the children of the baby boom generation are not choosing these careers in the same numbers as their parents. The number of science and engineering doctoral degrees awarded to U.S. citizens dropped by 7 percent from 1998 to 2001, while the number of jobs requiring science and engineering skills in the U.S. labor force is growing almost 5 percent per year. In a recent survey, the National Association of Manufacturers found that more than 80 percent of manufacturers report a shortage of qualified job candidates. Equally troubling, it is estimated that as many as 3.3 million jobs may be sent overseas in the next 15 years, causing American workers to lose $136 billion in wages.

A recent trip to Taiwan brought to my attention some of these emerging opportunities in other countries, and specifically the major benefits of a science park. Initially developed by the Taiwanese government in the early 1980s, the Hsinchu Science Park meets many of the needs of growing high tech companies, which include access to a trained work force, financing, secondary supply chain companies, and quality of life services such as schools, roads and parks. Two companies spun out from this park now control 40 percent of the world's market for chip fabrication. And China is now adopting a similar model.

What we need to take from countries like Taiwan is the role the government has to foster continued growth in key industries by supporting the necessary infrastructure, such as the science parks. It should also be pointed out that that support is not forever. While Taiwan had a very active role in chip R&D in the 70's and 80's, that is not true today. Industry, not the government, funds over 94 percent of chip R&D.

In my own State of New Mexico, the 6-year-old Sandia Science and Technology Park has already demonstrated some of the benefits of this unique model. The Sandia park now has 19 entities employing almost 1,000 people. The average annual salary is $55,000—well above the Albuquerque average. Since the Park's inception, more than $17 million in cooperative research and development agreements and licensing agreements have been made between Sandia National Laboratory and park tenants. In addition, Sandia has awarded more than $50 million in procurement contracts to park tenants. Both Sandia National Laboratory and the companies in the park have benefited immensely from the advantages of this business environment.

With the new challenges we are facing as a competitor in the international marketplace, here are four things we can do to improve our Nation's position.

First, we have to improve our high tech workforce. We need to increase the numbers of workers educated for employment in high technology industries, align the technical and vocational programs of educational institutions with the workforce needs of high growth industries, offer individuals expanded opportunities for rapid training and re-training needed to keep and change jobs in a volatile economy, and provide U.S. companies with adequate numbers of skilled technical workers. This is why I am introducing the Workforce Investment in Next Generation Technologies—WING—Act today.

Drawing from the already very successful Advanced Technology Education Program at the National Science Foundation, the legislation will establish a consultation partnership between the National Science Foundation, the Department of Labor, and the Department of Education that creates flexible high-tech, high-wage career ladders. It would do this by funding cooperative partnerships between one-stop centers, business, community colleges, universities, and vocational programs at the local and regional level. These would be directed toward creating technology-based certification programs that would solidify common skill standards for industry. Schools would create a curriculum based on current industry needs, and individuals who leave the program would have a skill-set recognized by industry. Significantly, they could be used anywhere across the country.

Over time, because individuals would be able to incrementally increase their skill set through additional training, they would be able to pursue higher level degrees in science and technology and obtain progressively higher-wage employment. Furthermore, by linking the public and private sector in a collaborative effort for high-technology workforce training, it will encourage the sharing of information and ideas, increase cooperation between entities frequently having a reputation for not working together, and enhance cluster-driven economic growth across the country. In my state of New Mexico, for example, you could easily envision a cluster being developed around key critical technologies for the future such as high temperature superconductors or next-generation lighting.

Second, we need to ensure that individuals typically trapped in low-wage jobs have a tangible chance to step onto career ladders to something better. To this end I previously introduced the Limited English Proficiency and Integrated Workforce Training Act, S. 1690. This legislation establishes a program under the Workforce Investment Act administered jointly by Departments of Labor and Education focused on preparing and placing individuals with limited English proficiency in growing industries with tangible high wage career paths. It is also designed to bypass lengthy prerequisites to entry into the workforce and allow individuals with limited proficiency to integrate occupational and English language training. Significantly, it recognizes that immigrants constitute close to 50 percent of the growth in the civilian workforce in the last decade and that these individuals can make a significant contribution to U.S. economic competitiveness.

In combination, these bills will bring together workforce training and economic development to enhance opportunities for growth in communities around the country. Similar language was already accepted in the Workforce Investment Act legislation that passed the Senate.

Focusing on high-school to postsecondary education, an important third component to meeting the demands of a competitive, 21st century workforce is the bill I am introducing today, the Preparing Students for a High-Tech World Act.

Strong career and technical education programs are vital to addressing our shortage of highly-skilled workers and to preserving these jobs for Americans. These programs offer effective and proven links to positive educational and employment outcomes for students, including increased school attendance, reduced high school dropout rates, higher grades, increased entry into postsecondary education, and greater access to high-tech careers.

In my home State of New Mexico, we have benefited greatly from federal support for career and technical education programs, which involve over 3,000 secondary and postsecondary teachers. These programs have a distinguished record of preparing young people and adults for further education and careers. For instance, in Gadsden, we have an innovative program in a rural border area that has been struggling to keep its jobs and its industry alive. The Gadsden program has directly linked the needs of area employers to the high school and postsecondary curriculum. The employers get a customized workforce, and have more incentive to stay and grow their business in the region. The students get preferred hiring status, as well as opportunities to enhance their skills and obtain certificates as they work.

We also have an outstanding career and technical education program in Rio Rancho that was established through a unique community-business partnership with Intel Corporation. Rio Rancho High School offers a rigorous, integrated career and technical education program that was featured in Time magazine as one of the 10 most innovative career and technical schools in the nation.

The Preparing Students for a High-Tech World Act will extend the opportunity to benefit from exemplary programs like Rio Rancho to our nation's students by increasing the academic rigor and integration of career and technical education programs; developing pathways to postsecondary education and high-skill, high-wage careers; forging alliances among secondary schools, postsecondary institutions, and business and industry designed to address local and regional workforce needs; ensuring that teachers have the knowledge and skills to teach effectively in career and technical education programs; and encouraging the establishment of small, personalized, career-themed learning communities.

These three bills will ensure that we develop the skilled workforce that is essential to building a strong and dynamic economy and to maintaining our country's ability to compete in a global marketplace. This legislation would have substantial spill-over benefits for the communities that adopted these strategies. It would improve science and technology education at the schools in the area. It would increase the employment opportunities for the students that participated in these programs. It would establish more cooperative linkages between the business, schools, and the one-stop shops, and it would enhance economic development in the region.

Along with developing a better trained workforce, we must also create the jobs for them to fill. As I mentioned earlier, Taiwan and Sandia have done an excellent job in demonstrating the competitive advantages of a science park. Given that they act as a critical element in diffusing technology into our national industries, I think that a fourth element of our response to new S&T challenges would be for the Federal government to take a stronger and more coherent role in supporting such parks. Some science parks are locally supported by their states, while others may apply for grants from the Economic Development Administration within the Department of Commerce. These existing sources of support are helpful but it appears to me that it would make good sense to develop a more focused grant program to help jump-start the development of science parks, which is why I have introduced the Science Park Administration Act of 2004. If passed, the federal funds in this bill would be cost matched by States. A loan program to assist in land acquisition and infrastructure development for these parks would be established. And various tax incentives would be provided, including credits for employees trained locally, and adjustment of depreciation schedules for high-end equipment to reflect actual product life-cycles.

I hope that I have provided some positive steps we can take to face the increasingly competitive world we live in. Congress and the administration need to find the will and the resolve to meet these challenges head-on. I look forward to working with my colleagues in doing so, and in helping to ensure the competitive strength of our Nation.

## ESTIMATE FOR S. 894

Mr. SHELBY. Mr. President, I ask unanimous consent that the Congressional Budget Office cost estimate for S. 894, the Marine Corps 230th Anniversary Commemorative Coin Act, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, June 22, 2004.*

Hon. RICHARD C. SHELBY,
*Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 894, the Marine Corps 230th Anniversary Commemorative Coin Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

ELIZABETH ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

*S. 894—Marine Corps 230th Anniversary Commemorative Coin Act*

S. 894 would authorize the U.S. Mint to produce a $1 silver coin in calendar year 2005 to commemorate the 230th anniversary of the United States Marine Corps. The legislation would specify a surcharge of $10 on the sale of each coin and would designate the Marine Corps Heritage Foundation, a nonprofit entity, as the recipient of the income from the surcharge. CBO estimates that enacting S. 894 would have no significant net impact on direct spending over the 2004–2009 period.

Sales from the coins that would be authorized by S. 894 could raise as much as $5 million in surcharges if the Mint sells the maximum number of authorized coins. However, the experience of recent commemorative coin sales suggests that receipts would be about $3 million. Under current law, the Mint must ensure that it does not lose money producing commemorative coins before transferring any surcharges to a recipient organization. CBO expects that those receipts from such surcharges would be transferred to the heritage foundation in fiscal year 2006.

S. 894 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On March 22, 2004, CBO transmitted a cost estimate for H.R. 3277, the Marine Corps 230th Anniversary Commemorative Coin Act, as ordered reported by the House Committee on Financial Services on March 17, 2004. The two pieces of legislation are similar and our estimates of implementing each bill are the same.

The CBO staff contact for this estimate is Matthew Pickford, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## COST ESTIMATE FOR S. 976

Mr. SHELBY. Mr. President, I ask unanimous consent that the Congressional Budget Office cost estimate for S. 976, the Jamestown 400th Anniversary Commemorative Coin Act, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, June 25, 2004.*

Hon. RICHARD C. SHELBY,
*Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 976, the Jamestown 400th Anniversary Commemorative Coin Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

ELIZABETH ROBINSON,
(For Douglas Holtz-Eakin, Director).

Enclosure.

*S. 976—Jamestown 400th Anniversary Commemorative Coin Act of 2003*

Summary: S. 976 would direct the U.S. Mint to produce a $5 gold coin and a $1 silver coin in calendar year 2007 to commemorate the 400th anniversary of the founding of Jamestown, Virginia. The bill would specify a surcharge on the sales price of $35 for the gold coin and $10 for the silver coin and would designate the Jamestown-Yorktown Foundation (an educational institution of the Commonwealth of Virginia), the National Park Service, and the Association for the Preservation of Virginia Antiquities (a private nonprofit association), as recipients of the income from those surcharges.

CBO estimates that enacting S. 976 would have no significant net impact on direct spending over the 2004–2009 period. S. 976 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), and would benefit the Commonwealth of Virginia.

Estimated cost to the Federal Government: S. 976 could raise as much as $8.5 million in surcharges if the Mint sells the maximum number of authorized coins. Recent commemorative coin sales by the Mint suggest, however, that receipts would be about $3 million. The legislation would require the Mint to produce the $1 silver coin from silver available in the National Defense Stockpile. Based on information provided by the Defense Logistics Agency and the Mint, no silver is available in the stockpile. Hence, CBO estimates that receipts from only the $5 gold coin would be about $1.25 million.

Under current law, only two commemorative coins may be minted and issued in any calendar year and the Mint must ensure that it will not lose money on a commemorative coin program before transferring any surcharges to a designated recipient organization. CBO expects that the Mint would collect most of those surcharges in fiscal year 2007 and would transfer collections to the designated recipients in fiscal year 2008.

In addition, CBO expects that the Mint would use gold obtained from the reserves held at the Treasury to produce the gold coin. Because the budget treats the sale of gold as a means of financing governmental operations—that is, the Treasury's receipts from such sales do not affect the size of the deficit—CBO has not included such receipts in this estimate. CBO estimates that S. 976 would provide the federal government with about $3.5 million in additional cash (in exchange for gold) for financing the federal deficit in fiscal year 2007.

Intergovernmental and private-sector impact: S. 976 contains no intergovernmental

or private-sector mandates as defined in UMRA, and would benefit the Commonwealth of Virginia.

Previous CBO estimate: On March 22, 2004, CBO transmitted a cost estimate for H.R. 1914, the Jamestown 400th Anniversary Commemorative Coin Act of 2003, as ordered reported by the House Committee on Financial Services on March 17, 2004. The two pieces of legislation are similar and our cost estimates are the same; however, H.R. 1914 would not require the Mint to use silver from the National Defense Stockpile to produce the $1 silver coin.

Estimate prepared by: Federal Costs: Matthew Pickford; Impact on State, Local, and Tribal Governments: Sarah Puro; and Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

Mr. FEINGOLD. Mr. President, I supported passage of this year's defense authorization bill because it contains many provisions that our brave men and women in uniform need and deserve. But before I go into the details of why I support this legislation, I must first thank the members of the United States Armed Forces for their service to our country. They are performing admirably under difficult circumstances all over the world. Our soldiers, sailors, airmen, and Marines, along with their families, are making great sacrifices in service to our country. I am voting for this legislation to support these people who are serving the country with such courage.

I strongly support the 3.5 percent across-the-board pay raise for military personnel that this bill provides. We must make sure that our professional military is paid a fair wage. This bill also makes permanent the increase in family separation allowance and imminent danger pay, another important policy for our men and women in uniform. Once again, I was proud to support the expansion of full-time TRICARE health insurance for our National Guard and Reserve. The reserve component is being used more than at any other time since World War II. Forty percent of our troops in Iraq are reserve component troops. These citizen soldiers face additional burdens when they transition in and out of their civilian life and providing them and their families with TRICARE is one way we can ease those burdens.

Another aspect of this bill that I strongly support is the increased funding for force protection equipment. Last year, concerned Wisconsinites contacted my office telling me that they or their deployed loved ones were fighting for their country in Iraq without the equipment they needed. This situation is unconscionable. I have repeatedly pressed the Pentagon to fix this situation and I and my colleagues went a long way in addressing these shortages in the supplemental spending bill for Iraq and Afghanistan. The $925 million for additional up-armored HUMVEES and other ballistic protection as well as the $600 million in force protection gear and combat clothing in this bill above what was in the President's proposed budget further ensures that our troops have the equipment they need to perform their duties on the ground.

I am pleased that the Senate approved my amendment to ensure that the Inspector General for the Coalition Provisional Authority will continue to oversee U.S. reconstruction efforts in Iraq after June 30 of this year as the Special Inspector General for Iraq Reconstruction. The American taxpayers have been asked to shoulder a tremendous burden in Iraq, and we must ensure that their dollars are spent wisely and efficiently. Today, the CPA is phasing out, but the reconstruction effort has only just begun. As of mid-May, only $4.2 billion of the $18.4 billion that Congress appropriated for reconstruction in November had even been obligated. With multiple agencies involved and a budget that exceeds the entire foreign operations appropriation for this fiscal year, U.S. taxpayer-funded reconstruction efforts should have a focused oversight effort. My amendment will ensure that the Inspector General's office can continue its important work even after June 30, rather than being compelled to start wrapping up and shutting down while so much remains to be done. This is good news for the reconstruction effort, and good news for American taxpayers.

I also want to thank the chairman and the ranking member of the Armed Services Committee for working with me to accept the amendment that I offered with the Senator from Maine, Ms. SNOWE, which represents a first step toward enhancing and strengthening transition services that are provided to our military personnel. This amendment will require the General Accounting Office, GAO, to undertake a comprehensive analysis of existing transition services for our military personnel that are administered by the Departments of Defense, Veterans Affairs, and Labor and to make recommendations to Congress on how these programs can be improved. This study will focus on two issues: how to achieve the uniform provision of appropriate transition services to all military personnel, and the role of post-deployment and predischarge health assessments as part of the larger transition program. I very much look forward to reviewing the results of this study.

The Senate version of the defense authorization bill also includes a provision finally fulfilling a goal for which I have been fighting for years—making sure that every state and territory has at least one Weapons of Mass Destruction Civil Support Team, WMD–CST. I was delighted earlier this year when Wisconsin was chosen as one of 12 States to receive a WMD–CST authorized and appropriated for in FY2004 but I was also disappointed that the President's proposed budget for FY2005 included funding for only 4 of the 11 outstanding teams. I along with 28 of my colleagues, wrote the Senate Armed Services Committee chairman and ranking member asking them to fully fund all 11 remaining teams. The chairman and ranking member have been very supportive of my efforts in this area over the years and I thank them again this year for funding all 11 remaining WMD-CSTs.

This authorization bill addresses the grave threat our nation faces from unsecured nuclear materials. It includes $409 million for the Cooperative Threat Reduction program and $1.3 billion for the Department of Energy nonproliferation programs. I was also proud to cosponsor the amendment offered by Senator DOMENICI and Senator FEINSTEIN that authorizes the Department of Energy to secure the tons of fissile material scattered around the world. This bipartisan initiative aims to dramatically accelerate current efforts to secure this dangerous material so that it cannot fall into the hands of those who aim to harm us. Time is of the essence and I was pleased to hear that the administration is fully supportive of this effort through the Global Threat Reduction Initiative.

I also voted for an amendment offered by Senator REED that boosts the Army's end strength by 20,000. Mr. President I did so because it has become clear that the Army is currently overstretched, and I believe that we need to ensure readiness to handle threats in the future. A recent Brookings Institution report says that the military is being stretched so thin that if we don't expand its size, it could break the back of our all-volunteer Army. One does not have to support all of the deployment decisions that brought us to this point today to see that we need to have the capacity to handle multiple crises with sufficient manpower and strength. I do not take lightly the decision to lock in a significant increase in spending. The need is great, however, and the deliberative defense authorization process, not the emergency supplemental process, is the place to do it.

I must note that, unfortunately, this bill has many of the same problems that I've been fighting to fix for years. Once again, we are spending billions upon billions of dollars for weapons systems more suited for the Cold War than the fight against terrorism. I was very disappointed that the Senate did not agree to Senator Levin's amendment that would have used a small percentage of the over $10 billion authorized for missile defense for critical unfunded homeland defense needs. This amendment, which I cosponsored, would have used $515.5 million now slated for additional untested interceptors and spent it instead on the top unfunded Department of Defense homeland defense priorities, research and development programs, radiation detection equipment at seaports, and other important defenses against terrorism. Budgeting is about setting priorities and I am sad to say that when

the Senate failed to adopt Senator Levin's amendment, it missed a golden opportunity to adjust its priorities in order to face our country's most pressing threat—the threat of terrorism.

I was disappointed that the Senate failed to reduce the retirement age for those in the National Guard and Reserve from 60 to 55. Our country has placed unprecedented demands upon the Guard and Reserve since September 11, 2001, and will continue to do so for the foreseeable future. Considering the demands we are placing on them, it is time that we lower the Guard and Reserve's retirement age to the same level as civilian federal employees.

Although my support for reducing the reserve component retirement age has been unwavering, because of the significant budgetary impact of this measure I had hoped that Congress would first receive reviews of reserve compensation providing all of the information that we need to address this issue responsibly. I patiently waited for several studies on the issue, including by the Defense Department, but when the studies came out they called for further study. This matter cannot continue to languish unaddressed indefinitely. As retired U.S. Air Force Colonel Steve Strobridge, government relations director for the Military Officers Association of America, MOAA, put it, ''It is time to fish or cut bait.'' I agree with MOAA's analysis that, ''Further delay on this important practical and emotional issue poses significant risks to long-term (Guard and Reserve) retention'' and I was proud to vote for the amendment offered by the Senator from New Jersey, Mr. CORZINE.

I also believe that the Senate missed an opportunity to provide a small but needed measure of relief to military families when it failed to adopt my Military Family Leave Act amendment. This amendment would have allowed a spouse, child, or parent who already qualifies for Family and Medical Leave Act, FMLA, benefits—unpaid leave—to use those existing benefits for issues directly arising from the deployment of a family member. The Senate adopted a similar amendment by unanimous consent when I offered it to the Iraq supplemental spending bill. This amendment has the support of the Military Officers Association of America, the Enlisted Association of the National Guard of the United States, the Reserve Officers Association, the National Guard Association of the United States, the National Military Family Association, and the National Partnership for Women and Families.

I regret that a harmful second degree amendment was offered to my amendment and that I was not given the opportunity to have a straight up or down vote. Rather than taking up the Senate's time in a protracted debate about the second degree amendment, I withdrew my amendment so that this important defense authorization bill could move forward. However, the need addressed by my amendment remains and I will continue to fight to bring some relief to military families that sacrifice so much for all of us.

I want to bring attention to another element of the Defense Authorization bill that raises concerns for me. The Defense Authorization bill includes language that raises troop caps in Colombia from 400 to 800 military personnel and from 400 civilian contractors to 600. I am disappointed that Senator BYRD's amendment was not approved by the Senate, which would have limited the increases in these caps to 500 military personnel and 500 civilian contractors. I have serious concerns about the increase in these caps to the levels established by the bill. Most importantly, I worry about placing more Americans in harm's way in Colombia. Further deployments bring greater risks to an already overstretched military. We do not want to risk being drawn further into Colombia's civil war—certainly not without a thorough debate that the American people can follow. In addition, many of my constituents and I remain concerned that by raising these caps, the U.S. devotes greater resources to the military side of the equation in Colombia without balancing our approach through greater support for democratic institutions, increasing economic development, and supporting human rights.

There are other provisions in this bill with which I disagree and the Senate rejected a number of amendments that would have made this bill better. However, on balance this legislation contains many good provisions for our men and women in uniform and their families and that is why I will vote for it.

## U.S.-AUSTRALIA FREE TRADE AGREEMENT

Mr. SMITH. Mr. President, I rise today in support of an important free trade agreement that was recently signed between the United States and Australia. Earlier today, I was pleased to join an overwhelming majority of my colleagues on the Senate Finance Committee to report out this agreement favorably, and I am hopeful that within the next day, the full Senate will give its consent as well. This vote not only reaffirms our strong relationship with a close ally but marks an important step forward on our path toward economic recovery.

Since 1994, two-way trade between the United States and Australia has increased 53 percent to nearly $29 billion. Australia purchases more goods from the United States than any other country, giving the United States a $9 billion bilateral goods and services trade surplus. Last year alone, my homestate of Oregon exported more than $257 million in merchandise to Australia. These exports accounted for 2.5 percent of the State total in 2003.

The elimination of trade barriers between the two countries promises to increase these figures even more. Under the agreement, duties on almost all manufactured goods will be eliminated. This will result in first-year tariff savings of about $300 million for U.S. manufactured goods exporters. For Western Star—a subsidiary of DaimlerChrysler—located in Portland, OR, this translates to savings of nearly $2 million a year in eliminated tariffs and duties that currently average $4,000 per truck exported to Australia. It is estimated that U.S.-Australia Free Trade Agreement will result in approximately $2 billion of new U.S. exports.

This agreement will also open new doors for U.S. farmers. U.S. agricultural exports to Australia, totaling more than $700 million last year, will receive immediate duty-free access. This means American farmers will be better poised to compete in a market of over 19 million people. Additionally, food inspection procedures that have posed barriers in the past have been addressed, and substantial safeguards have been written into the agreement to ensure a smoothe and stable transition for our domestic meat and dairy industries.

As I come here today, I realize that there are those who still have reservations over the prospects of expanded trade. While the benefits of a more liberalized trade policy are vast, I know that they have not been spread evenly across all sectors. I am confident, however, that the safeguards in this agreement will ensure a stable market for domestic procedures while providing new market access and real consumer benefits. I believe this agreement is good for the United States, and I urge its passage.

## REVEREND DONALD J. LONGBOTTOM

Mr. HAGEL. Mr. President, I rise today to thank Rev. Don Longbottom for accepting Senate Chaplain Barry Black's and my invitation to join us in the U.S. Senate and offer the opening prayer. I also would like to recognize his wife, Lori, who has accompanied him to Washington from Nebraska.

Reverend Longbottom is currently the Senior Minister at Countryside Community Church United Church of Christ in Omaha, NE. He ministers to more than 2,000 members of Countryside Community Church in Omaha, including my dear friends Ron and Lois Roskens and former Nebraska Congressman John Y. McCollister and his wife Nan.

In addition to his leadership in faith communities in Kansas, Ohio, and California, Reverend Longbottom continues to dedicate himself to the spiritual and community needs of many Nebraskans. He currently serves on the Board of Directors for the United Church of Christ Nebraska Conference and has taught college courses in Environmental and Business Ethics.

I again thank Reverend Longbottom for leading today's prayer for my colleagues and I in the U.S. Senate and for guiding us in reflecting upon the tremendous responsibilities we have as lawmakers.

## COMMEMORATING THE 40TH ANNIVERSARY OF THE WILDERNESS ACT

Mr. FEINGOLD. Mr. President, as founder of the Senate Wilderness Caucus, I introduced a Senate resolution to commemorate the 40th anniversary of the Wilderness Act of 1964, which was signed into law on September 3, 1964, by President Lyndon B. Johnson. I thank the following colleagues for their support as cosponsors: Senator SUNUNU, Senator HAGEL, Senator DURBIN, Senator BOXER, Senator MCCAIN, Senator MURRAY, Senator LUGAR, Senator WARNER, Senator CHAFEE, Senator SNOWE, and Senator COLLINS.

The Wilderness Act became law seven years after the first wilderness bill was introduced by Senator Hubert H. Humphrey of Minnesota. The final bill, sponsored by Senator Clinton Anderson of New Mexico, passed the Senate by a vote of 73–12 on April 9, 1963, and passed the House of Representatives by a vote of 373–1 on July 30, 1964. The Wilderness Act of 1964 established a National Wilderness Preservation System ''to secure for the American people of present and future generations the benefits of an enduring resource of wilderness.'' The law gives Congress the authority to designate wilderness areas, and directs the Federal land management agencies to review the lands under their responsibility for their wilderness potential.

Under the Wilderness Act, wilderness is defined as ''an area of undeveloped federal land retaining its primeval character and influence which generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable.'' The creation of a national wilderness system marked an innovation in the American conservation movement—wilderness would be a place where our ''management strategy'' would be to leave lands essentially undeveloped.

The original Wilderness Act established 9.1 million acres of Forest Service land in 54 wilderness areas. Now, after passage of 102 pieces of legislation, the wilderness system is comprised of over 104 million acres in 625 wilderness areas, across 44 States, and administered by four Federal agencies: the Forest Service in the U.S. Department of Agriculture, and the Bureau of Land Management, the Fish and Wildlife Service, and the National Park Service in the Department of the Interior.

As we in this body know well, the passage and enactment of the Wilderness Act was a remarkable accomplishment that required steady, bipartisan commitment, institutional support, and strong leadership. The U.S. Senate was instrumental in shaping this very important law, and this anniversary gives us the opportunity to recognize this role.

As a Senator from Wisconsin, I feel a special bond with this issue. The concept of wilderness is inextricably linked with Wisconsin. Wisconsin has produced great wilderness thinkers and leaders in the wilderness movement such as Senator Gaylord Nelson and the writer and conservationist Aldo Leopold, whose A Sand County Almanac helped to galvanize the environmental movement. Also notable is Sierra Club founder John Muir, whose birthday is the day before Earth Day. Wisconsin also produced Sigurd Olson, one of the founders of the Wilderness Society.

I am privileged to hold the Senate seat held by Gaylord Nelson, a man for whom I have the greatest admiration and respect. Though he is a well-known and widely respected former Senator and former two-term Governor of Wisconsin, and the founder of Earth Day, some may not be aware that he is currently devoting his time to the protection of wilderness by serving as a counselor to the Wilderness Society—an activity which is quite appropriate for someone who was also a co-sponsor, along with former Senator Proxmire, of the bill that became the Wilderness Act.

The testimony at congressional hearings and the discussion of the bill in the press of the day reveals Wisconsin's crucial role in the long and continuing American debate about our wild places, and in the development of the Wilderness Act. The names and ideas of John Muir, Sigurd Olson, and, especially, Aldo Leopold, appear time and time again in the legislative history.

Senator Clinton Anderson of New Mexico, chairman of what was then called the Committee on Interior and Insular Affairs, stated his support of the wilderness system was the direct result of discussions he had held almost 40 years before with Leopold, who was then in the Southwest with the Forest Service. It was Leopold who, while with the Forest Service, advocated the creation of a primitive area in the Gila National Forest in New Mexico in 1923. The Gila Primitive Area formally became part of the wilderness system when the Wilderness Act became law.

In a statement in favor of the Wilderness Act in the New York Times, then-Secretary of the Interior Stewart Udall discussed ecology and what he called ''a land ethic'' and referred to Leopold as the instigator of the modern wilderness movement. At a Senate hearing in 1961, David Brower of the Sierra Club went so far as to claim that ''no man who reads Leopold with an open mind will ever again, with a clear conscience, be able to step up and testify against the wilderness bill.'' For others, the ideas of Olson and Muir—particularly the idea that preserving wilderness is a way for us to better understand our country's history and the frontier experience—provided a justification for the wilderness system.

In closing, I would like to remind colleagues of the words of Aldo Leopold in his 1949 book, A Sand County Almanac. He said, ''The outstanding scientific discovery of the twentieth century is not the television, or radio, but rather the complexity of the land organism. Only those who know the most about it can appreciate how little is known about it.'' We still have much to learn, but this anniversary of the Wilderness Act reminds us how far we have come and how the commitment to public lands that the Senate and the Congress demonstrated 40 years ago continues to benefit all Americans.

## COSPONSORSHIP OF S. 2603

Mr. BURNS. Mr. President, I am pleased to announce that I have signed on today as a cosponsor to S. 2603, the Junk Fax Prevention Act of 2004. This legislation is vital in preserving a valuable small business tool and empowers consumers by requiring an opt-out option on faxes.

Consumers will benefit from this act because of the provision that requires all unsolicited advertisers to provide an opt-out option on the front page of all solicitations. This notice must be clear and conspicuous, and the mechanism for opting out must be at no cost to the consumer.

The Junk Fax Prevention Act will also benefit small businesses because they will be able to continue corresponding with customers and business partners who have an established business relationship. This is especially important for businesses, like real estate companies and restaurants, which rely on faxes to do business. Faxes are beneficial because they are a low cost way to stay in touch with customers and clients. When an employee leaves a business, his or her email account is frequently shut down. Faxes allow the information to reach the new person with the correct job.

Communication is the key to successful businesses. This bill strikes the right balance between prohibiting unwanted faxes while allowing small businesses to easily stay in touch with customers.

I thank my colleague from Oregon, Senator SMITH, for sponsoring this legislation. I look forward to discussing the Junk Fax Prevention Act of 2004 in committee and urge my colleagues to adopt the necessary pro-small business and pro-consumer legislation.

## THE GLOBAL FIGHT AGAINST AIDS

Mr. HARKIN. Mr. President, on July 11, the 15th Annual International AIDS Conference began in Bangkok, Thailand. The theme of this year's conference is ''Access for All,'' meaning access to lifesaving medications. As

many of my colleagues know, the current AIDS pandemic threatens approximately 38 million people worldwide. Last year, 5 million more became infected. Sixty percent of all cases are in sub-Saharan Africa, but the virus is spreading almost unchecked in Asia and Eastern Europe. Twenty million people world-wide have died since the first case was diagnosed in 1981.

Unfortunately, the theme of the Bangkok conference—''Access for All''—is a hope and aspiration that bears little resemblance to the harsh reality we confront today. In reality, most newly infected people will not receive anti-retroviral drugs in time to do any good.

There are many barriers to progress: developing countries lack the trained physicians, nurses, or support staff to properly distribute anti-retroviral drugs and to monitor patients' progress. In addition, contributions to the Global Fund to Fight AIDS are not sufficient. Some countries are falling far short of what is needed.

And on July 1, the Wall Street Journal reported another big reason why drug distribution has been difficult. Simply put, the United States government will not purchase effective generic drugs; it insists on brand-name pharmaceuticals. Let me give you an example of why this matters.

On April 6, The Washington Post reported on pricing agreements negotiated by the William Jefferson Clinton Foundation with pharmaceutical companies that produce generic drugs. These agreements, in cooperation with the Global Fund, the World Bank, and UNICEF, will provide access to affordable AIDS drugs in 100 developing nations around the world. As a result, as many as 3 million additional people will be tested and treated for AIDS than before.

Under negotiated pricing agreements with five generic-drug companies—four in India and one in South Africa—the Foundation will reduce the cost of fixed-dose generic AIDS drugs by as much as half. Fixed-dosage drugs combine several drugs in one pill. This makes the treatments simpler to take. Research tells us that simplified treatment programs have more successful outcomes. The cost to test and treat a patient will drop from more than $500 per year down to $200 per year. The drugs themselves will cost only $140 per person, per year.

These are significant savings. And the savings have positive results. More people can be tested and treated than with existing programs. This is progress. These negotiated agreements will save lives.

In his 2003 State of the Union Address, President Bush announced a $15 billion plan to combat HIV/AIDS worldwide. Certainly, this was an admirable initiative. Authorizing legislation passed overwhelmingly in the House and Senate.

But, the administration has taken a different approach in implementing this plan than the Clinton Foundation has with their negotiated pricing agreements. I am concerned the $15 billion AIDS policy the President is pursuing is not nearly as effective as these negotiated agreements. Why? Because instead of negotiating for the most effective drugs for the lowest cost, the administration purchases brand-name pharmaceuticals from western countries at twice the cost.

For example, at a hospital in Zimbabwe, the Centers for Disease Control will soon implement a program that calls for patients to take six pills per day, from a variety of brand-name manufacturers, at a cost of $562 per patient, per year. Yet at the very same hospital, using the very same procedures, Doctors Without Borders purchases fixed-dosage retroviral drugs —two pills per day—from an Indian generic manufacturer. The treatment program costs $244 per patient per year—$318 less than the price the CDC pays. The programs have the same goals, at the same hospital, but the program sponsored by the U.S. Government costs more than twice as much.

This is not the most effective use of taxpayer money. The administration could use fixed-dosage, generic drugs, but won't. Instead it chooses to purchase multiple brand-name drugs, and implement a more complicated treatment regimen at more than twice the price. If the goal is to treat the AIDS epidemic, then why are we spending twice-as-much money on more complicated, less effective treatment? Where is the outrage about waste, fraud, and abuse in the Federal Government—not to mention plain old-fashioned stupidity?

Unfortunately, the answer is all too familiar. The administration has chosen to side with the brand-name pharmaceutical industry— despite the cost, and despite the efficacy. We have seen this behavior before.

This brings us back to the Clinton Foundation's negotiated agreements with generic firms. My colleagues will be interested to know the man in charge of the Bush administration's AIDS initiative is Eli Lilly's former Chief Executive Officer, Randall Tobias. Recently, Mr. Tobias told Congress he had doubts about the quality of cheaper generic AIDS drugs made in India—the same drugs which the Clinton Foundation negotiated the pricing agreements. But, the World Health Organization approved the drugs and has an approval process similar to our own Food and Drug Administration. In fact, WHO's approval process was borrowed from the FDA. In testimony before the Senate Foreign Relations Committee on April 7, Dr. LuLu Oguda of Doctors Without Borders stated that she was ''bewildered by the debate'' about the use of generic fixed-dosage drugs to combat AIDS in Africa. She noted that the generics used were not ''substandard'' as claimed by the Bush Administration. Rather, they were made in some of the same facilities as generic drugs sold every day in the United States. As a volunteer in Malawi, a country where one fifth of the population lives with HIV, she knows the value of these quality generics.

I am left to conclude that the Bush administration has made a conscious choice. Cheaper, effective drugs are put aside in order to purchase more complex treatments from domestic pharmaceutical manufacturers. Fewer HIV/AIDS patients are treated, and more inefficiently. This is no different than refusing to support negotiation authority for Medicare beneficiaries. Fewer drugs can be purchased because prices remain high.

Beyond the burden to taxpayers, these policies have grave human consequences. People's lives are at stake. Prescription drugs are not like other consumer products. They are not optional or discretionary. For people with HIV/AIDS, lack of access to drugs can mean debilitating illness and even death. It's not like buying a car—the customer can't walk away from the deal with his or her health in tact. So the choices that we make here in Washington, the choices that the pharmaceutical industry makes, are fateful choices. And let's be clear, the pricing practices favored by the administration and the pharmaceutical industry will cost countless lives in Africa and here at home.

I fully appreciate the need to preserve the pharmaceutical industry's ability to perform research and development. The Federal Government already supports this through rich tax incentives. Likewise, I certainly do not dispute the industry's right to make a profit. But we are quickly coming to the point where the pursuit of reasonable profits turns into flat out profiteering. Diseases are viewed as marketing opportunities, not as scourges to be eliminated as rapidly and as cost-effectively as possible.

There is no question in my mind that we need to reopen the issue of how we negotiate drug prices in the program to combat HIV/AIDS worldwide. If we take the Clinton Foundation's approach, we can reach roughly twice as many patients. It is also time for us to reopen the issue of negotiations with pharmaceutical companies in our own country. It is time for our choices to put people ahead of profits.

I ask unanimous consent that an article from this morning's Washington Post and a transcript of a recent radio program on the International AIDS Conference in Bangkok be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 14, 2003]

U.S. RULE ON AIDS DRUGS CRITICIZED

(By Ellen Nakashima and David Brown)

BANGKOK, July 13.—The Bush administration's prohibition against using money from its $15 billion global AIDS plan to buy foreign-produced generic drugs is complicating

the delivery of medicine to some of the millions of poor people who badly need it, according to AIDS experts at an international conference here.

In an effort to sidestep the policy, some countries have been using U.S. money to train AIDS clinicians and buy lab equipment, while employing money from other sources to buy the medicines.

U.S. officials at the conference said Tuesday that they would go along with such an approach. They have also said a fast-track plan announced in May would allow some of the generics to receive rapid approval from the Food and Drug Administration, which would make them eligible for U.S. funding.

Specified in the giant President's Emergency Plan for AIDS Relief, the restrictions against unapproved generics, which for now include all foreign-made generics, have added to the already long list of obstacles to bringing antiretroviral (ARV) therapy to poor countries, experts attending the 15th International AIDS Conference here say.

''It was very confusing. You're trying to figure out who can buy what with what money,'' said Joia Mukherjee, medical director for Partners in Health, a Boston-based organization that has run an AIDS treatment program in Haiti for seven years and is developing others in Latin America.

The policy ''slows the coordination'' between the Bush plan and the people running treatment programs in the countries, Mukherjee said in an interview at the conference.

The U.S. Government Accountability Office reached similar conclusions in a report issued this week.

The GAO interviewed 28 U.S. government employees involved in the plan in the 15 countries where it is starting to operate. ''Twenty-one respondents indicated that they had not received adequate guidance on the procurement of ARV drugs, which makes it difficult for the U.S. missions'' to support country programs.

The State Department, which runs the plan, has not specified which activities the program ''can fund and support in national treatment programs that use ARV drugs not approved for purchase by the office,'' the authors wrote.

Partners in Health is expecting to receive at least $1 million in fiscal 2005 from the U.S. program. Mukherjee said she first began about nine months ago to inquire about whether it could be used to buy generic drugs. She—and others—were told no several months ago. But last week, she said, she was advised unofficially to use money from another source to buy generics and use the U.S. money for such things as salaries for health care workers, lab tests and a van.

That was ''a compromise that wasn't acceptable before,'' said a person affiliated with one of the organizations that received a large Bush administration AIDS grant last winter. ''We're still in the process of working out what drugs we will buy . . . in the countries we're in,'' said the official, who spoke on condition of anonymity.

Randall L. Tobias, the Bush administration's global AIDS coordinator, officially ratified that view in a statement Tuesday.

''We respect local governments' decisions as to how best to manage their HIV/AIDS programs,'' he said. ''We will, however, not use U.S. tax dollars to purchase medications that have not passed the same consumer protection standards as those we use for our own patients in the United States.

''In the event that a country elects to use non-U.S. funding to purchase copy drugs that have not been approved for quality and safety by the U.S., the president's emergency plan will support non-pharmaceutical aspects of the country's care, treatment and prevention programs, and will do whatever is necessary to maintain integrated systems of care.''

AIDS treatment that uses generic pills containing three antiretroviral drugs in one tablet—known as fixed-dose combinations—can cost as little as $200 a year. That is less than half the cut rates at which major pharmaceutical companies are offering brand-name drugs in poor countries.

Most organizations that are providing money for AIDS drugs in those countries—notably, the two-year old Global Fund to Fight AIDS, Tuberculosis and Malaria—require that generics they purchase go through a process called pre-qualification that is run by the World Health Organization and is similar to FDA approval.

The U.S. program does not recognize prequalification and instead has specified that all drugs it pays for must be approved by the FDA. In May, the agency established a fast-track system by which it will rule on applications from generics makers in two to six weeks.

Anthony S. Fauci, the physician and AIDS researcher who heads the National Institute of Allergy and Infectious Diseases, acknowledged the controversy over generics at a news conference Tuesday.

''I know there's been criticism about that, but I think we should give a chance to the FDA to prove if they're able to do it or not,'' he said. ''The only way to do that . . . is to submit the application for the approval process.''

Progress in the effort to put 3 million poor AIDS patients on treatment by the end of next year has been a major topic of discussion at the conference, whose theme is ''Access for All.''

In Haiti, where 280,000 people are living with HIV, the virus that causes AIDS, Partners in Health had about 50 patients on antiretroviral drugs in 2001. Today, largely with Global Fund money, it is treating 1,500. The drugs are administered free through a community health clinic.

Cissy Kityo of the Joint Clinical Research Center in Uganda said that country's government cannot afford to pay for all the drugs it is providing patients, even with a price of about $300 per person per year for generics. Consequently, about 90 percent of the 20,000 people on treatment are paying for their drugs, she said.

Uganda's policy of making people pay for their drugs has allowed it to spend funds instead to hire and train health care workers, who are critical to prevention and treatment efforts, Kityo said. ''We're just a small country trying to do our best,'' she said.

Chief among nongovernmental organizations providing antiretroviral drugs is Medecins Sans Frontieres, whose name in English is Doctors Without Borders. Today it has 13,000 patients in 56 projects in 25 countries in Africa, Asia, Eastern Europe and Latin America. About half are on fixed-dose combinations, which spokeswoman Rachel Cohen termed a ''radically simplified'' treatment.

The organization is spending $200 per person per year. The best available price worldwide for brand-name equivalents is $562 per person per year. ''If you have the option of spending $200 per person per year or $600 per person per year, and you're electing to spend $600, that means you're treating one person when you could be treating three,'' Cohen said.

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[From NPR News Morning Edition, July 13, 2004]

ANALYSIS: SMALL INDIAN FIRM CIPLA MANUFACTURES LOW-COST GENERIC AIDS DRUGS, BUT ITS PRODUCTS FACE BANS IN MANY COUNTRIES

STEVE INSKEEP (host). This is Morning Edition from NPR News. I'm Steve Inskeep.

RENEE MONTAGNE (host). And I'm Renee Montagne.

At this year's International AIDS Conference in Bangkok, most of the talk is about getting inexpensive, generic drugs to tens of millions of people. Relatively small generic drug manufacturers in four countries are at the center of the debate. One of the more aggressive of these companies is the Indian firm Cipla. In India, where five million people are infected, Cipla had trouble persuading the previous government to spend money on AIDS, even for generic drugs that cost pennies a day. NPR's Brenda Wilson recently visited Cipla.

BRENDA WILSON (reporting). Once inside Cipla's corporate headquarters in Mumbai, also known as Bombay, you're whisked off to a large room. It is surrounded on three sides by a glass wall of backlit shelves containing hundreds of samples of the company's products. You're then shown a six-minute promotional video that recounts Cipla's founding 70 years ago.

UNIDENTIFIED WOMAN NO. 1. To heal and to hold, to wipe a tear, bring back a smile, to give hope, to give life. That's been Cipla's mission right from the time it started way back in 1935.

Mr. AMAR LULLA (managing co-director, Cipla). Welcome to Cipla.

WILSON. Good meeting you, Mr. Lulla.

Mr. LULLA. Good to see you.

WILSON. That's Amar Lulla?

Mr. LULLA. That's me.

WILSON. OK, Amar.

Mr. LULLA. Yeah.

WILSON. So you are—what's your title exactly?

Mr. LULLA. I'm the joint managing director. I want you to see the range of products that we do here. We have over 1,200 products, exporting to 150 countries. We first start here. This is the range of our anti-infectives, antibacterials, quinolones, microlites . . .

WILSON. Some of them, products that have been approved by the U.S. Food and Drug Administration and are sold in the U.S. Indian drugmakers, not just Cipla, have been something of a thorn in the side of the big pharmaceutical companies, who see generic versions of their brand-name products as virtual rip-offs of intellectual property. They argue that the companies that make generics have not put the billions of dollars into research to develop drugs, just copied them. They also say that the copies are not always safe and may not have the same benefits.

Mr. LULLA. Here is the range of AIDS drugs. This is what we're a little bit known for, if I may say so. And now we're offering the triple-drug cocktail for less than 50 cents a day now.

WILSON. And that's this drug right here.

Mr. LULLA. This drug.

WILSON. Triomune, yes.

Mr. LULLA. Triomune. That is a combination of lamivudine, stavudine and nevirapine.

WILSON. All three in one pill, which means it's not only cheaper but easier to take. It is this product more than any other that holds up the hope of treating millions of people in poor countries who have AIDS. The patents for the drugs are held by three different manufacturers who, until recently, could not agree to share and therefore combine the compound in one pill.

UNIDENTIFIED WOMAN No. 2. (Foreign language spoken.)

WILSON. The Y.R. Gaitonde Center, an AIDS clinic in the southern city of Chennai, which treats more than 5,000 HIV patients, is one of the few places where reduced-price drugs are available in India. Oddly enough, Cipla sells most of its AIDS drugs to other countries. Today patients have lined up outside the pharmacy to purchase medications.

A pharmacist gives a gaunt young man his change and explains just when and how to take the medicine. Patients pay what they can. They're required to pay something. It's a way of making sure that the patient wants to be part of the program and will follow treatment regimens carefully. The YRG Center gets a special discount, and Cipla assists in other ways. Lulla says it's been trying for years to sell more generic AIDS drugs in India, but the government has not until recently agreed to Cipla's terms. But Amar Lulla insists that the company's motive isn't money and it isn't publicity.

Mr. LULLA. If you've seen the face of disease and if you've seen the face of death and if you've seen people dying because they can't access medicines, and if you save one life, it is worth it. To some of us, it's very important, you know. And then I can see a lot of cynicism in the media and in the way people do ask us, what is behind all this, you know? What is the motive? What is the motive? But sometimes doing this is an immense joy and serves the need that we all have within us as human beings, you know, to help someone. That's it. There's nothing more to it.

WILSON. Still, nowhere near the two million people in India that it is estimated now need treatment get it. Vivek Divan with the Lawyers Collective AIDS Unit says it's a profound paradox.

Mr. VIVEK DIVAN (Lawyers Collective AIDS Unit). A lot of our clients are dying. They just continue to die. It's a ridiculous situation. It's absurd because, you know, Cipla and Ranbaxy make this medication in this country, and it wasn't available and still isn't more or less available. When you think about it, it is such an absurd situation, it's so starkly absurd that it shocks you sometimes. It makes you laugh also, unfortunately.

WILSON. Late last year the Indian government finally struck a deal with Cipla, and in April, just before the national elections, the government began distributing free antiretrovirals for people with AIDS.

Ms. MEENAKSHI DATTA GHOSH (Director, National AIDS Control Organization). We have treated more than 800 people so far, and we do want to very rapidly accelerate the treatment.

WILSON. Meenakshi Datta Ghosh is the director of the government's National AIDS Control Organization.

Ms. DATTA GHOSH. We have trained teams in 25 medical hospitals, and that's where we are now moving to expand. And so we do believe the numbers getting treated will rapidly pick up.

WILSON. 'Cause 800, you know, for a population this size, seems incredibly small.

Ms. DATTA GHOSH. That's very unfair. We've only been in the treatment less than four months. Since May 2003 onwards, we have concentrated on expanding and widening the availability of services for people living with HIV and for the general population. Political commitment for HIV and AIDS has grown by leaps and bounds. All of this put together has enabled us to commence treatment earlier than perhaps was originally scheduled. And therefore, I do not—it's not entirely correct to say the government has not done anything.

WILSON. By the end of this year, she says, the government aims to provide treatment for 100,000 AIDS patients. India is not alone in the caution with which it has taken on treatment, using the generic AIDS drugs. Scientists and health officials question Cipla's capacity to supply generic drugs to the millions in developing countries who need them and maintain that supply for the rest of their lives. There are also concerns that generics may contribute to the development of a more resistant AIDS virus. Again, Cipla's Amar Lulla.

Mr. LULLA. This is such a beautiful argument, such a beautiful one when you don't want the drugs to reach the dying patients. The big pharmacy will say this argument is never advanced. Why? The same drugs, the same side effects, the same risk of developing resistance. Why is it not talked about? Why is it talked about only when you want to make them available to the patients, and you talk all this junk, I mean, such rubbish, it's not even pardonable. So don't give to anybody, right? If you can't give to 40 million, don't give to one million. Don't make these drug available to anybody. Let everybody die. What kind of argument is this? And this is such a con, such a lie, it's a crime on humanity, and everybody repeats it, you know. That's a pity.

WILSON. Some of the suspicions about generics and the quality of Cipla's three-in-one pill Triomune were answered by a recent study that was published in the British journal Lancet. As doctors had already noted, Tromune was just as effective at suppressing the AIDS virus as brand-name medications. Brenda Wilson, NPR News.

MONTAGNE. It's 11 minutes before the hour.

## ADDITIONAL STATEMENTS

### TRIBUTE TO JOHN A. FORLINES JR.

● Mrs. DOLE. Mr. President, I rise to salute a true gentleman who has just announced his retirement from the position of Chairman and CEO of the Bank of Granite based in Granite Falls, NC: Mr. John A. Forlines Jr. John is a man of great integrity and ability.

John's bank has become legendary, as it is often called ''the best little bank in America.'' However, his achievements extend beyond his professional life, for he is also well known for an outstanding history of service to his community, state and his country.

I had the pleasure of serving with John as a trustee for Duke University, and I was continually impressed with his intelligence, his dedication and his great enthusiasm for Duke University and higher education. A native of Graham, NC and a graduate of Duke, John joined the U.S. Army finance department in 1940, and eventually rose to the rank of Major.

John's extraordinary career with the Bank of Granite began in 1954, when he assumed the position of President. Soon after, he was named chairman of the North Carolina School of Banking at the University of North Carolina-Chapel Hill, and began his lifelong relationship with the American Bankers Association. He was later named Chairman of the North Carolina Banking Association. John's work has resulted in the continued growth of stronger communities across North Carolina. Through his work he has provided the capital for many businesses to be established and grow, creating good jobs. He work also financed countless homes for families and individuals across the state.

In addition, John has furthered his commitment to the communities of North Carolina through his dedication to service in his personal life. He serves on the Board of Elders of First Presbyterian Church in Lenoir, NC. He also holds positions on the Board of Directors for the North Carolina Citizens for Business and Industry; Caldwell County Hospice Inc.; Piedmont Venture Partners; and The Forest at Duke, a retirement community.

John's dedication to his profession and community has been recognized through the years with numerous honors and distinctions. These accolades include Financial World Magazine CEO of the Year for banks $300–$500 million in assets from 1992 to 1995. He received Duke University's Distinguished Alumni Award in 1994; and was inducted into the North Carolina Business Hall of Fame in 1999.

John Forlines epitomizes the American spirit through his entrepreneurial skills and his ever present commitment to family and community. He serves as an inspiration to us all. I appreciate his warm friendship and his tremendous service on behalf of all North Carolinians.●

### RECOGNITION OF DR. ROBERT K. STUART

● Mr. HOLLINGS. Mr. President, I wish to recognize and congratulate Dr. Robert K. Stuart for his accomplishments in the fight against cancer. He is a long-time leader in the medical cancer community on a professional and personal level. For his devotion to make a difference in the lives of others, Dr. Stuart deserves to be honored. He has fought cancer on many levels and is a model of inspiration to his community.

I ask that a recent Post and Courier article be printed in the RECORD, so that all my colleagues can see the extraordinary accomplishments of this man.

The material follows:

[From the Post and Courier, July 10, 2004]

CANCER DOCTOR, SURVIVOR TO JOIN LANCE ARMSTRONG ON TOUR

(By David Quick)

Cancer survival and cycling were forever linked when Texan Lance Armstrong survived testicular cancer and won not one, but five consecutive—and perhaps six—Tour de France races.

But long before Armstrong would become a household name, oncologist Dr. Robert K. Stuart was in the trenches fighting the war on one of humankind's most deadly diseases and using cycling as an escape and a way to stay strong physically and emotionally.

This October, the worlds of Armstrong and Stuart will come together for a week during the Bristol-Myers Squibb Tour of Hope, a 3,200-plus-mile relay from Los Angeles to Washington, DC. Stuart is one of 20 cyclists selected to participate in the tour from among more than 1,000 applicants.

Besides riding four hours every day, Stuart and the other cyclists, along with Armstrong, will be making stops along the way, spreading the message of hope and encouraging cancer patients to participate in new treatments, often referred to as clinical trials.

Stuart certainly has earned the honor.

In addition to being an avid cyclist, cancer doctor and researcher, he survived kidney cancer himself in 1991 and was the primary caregiver to his wife, Charlene, who recovered from leukemia after being diagnosed in 2000.

And he's been a leader in fighting cancer in South Carolina for nearly two decades—starting the hematology/oncology division at the Medical University of South Carolina in 1985, leading a surgical team in performing the state's first bone-marrow transplant in 1987, and being one of two who wrote the proposal for federal funding of what later would be called the Hollings Cancer Center.

''He's just done so much for MUSC,'' says Dr. Rayna Kneuper Hall, who heads the research hospital's breast cancer program. ''I'd say he is a true pioneer in the fields of hematology and oncology here. He had a vision of it (the division) and was able to make it come true.''

Despite his monumental resume, Hall says Stuart is humble, has deep compassion for his patients, and continues to be a good teacher and mentor to medical school students. ''He has an amazing memory. He can remember every patient he's ever seen and is able to recall a specific case to demonstrate a (cancer) situation. For students, it really helps to hear it in the context of a patient.''

For Stuart, his proudest accomplishment is having a hand in training 40 specialists in the fields of hematology and oncology, as well as having helped his patients.

''At this stage in my career, my legacy is more about people than it is publication. I have more than a hundred papers, but to me, the people are so much more important.''

A LOUISIANA BOY

Stuart was born the second of five boys to Walter and Rita Stuart in Grosse Tete, La., a small village across the Mississippi River from Baton Rouge. One of his grandmothers was Cajun and the other was Creole.

Walter Stuart worked for Kaiser Aluminum. Because both he and his wife were worried about the limited opportunities for their children in the village, they jumped at a job transfer to Northern California, where Robert would start elementary school.

However, when Kaiser planned to transfer Walter next to either British Guyana in South America or Ghana in Africa, the Stuarts decided to move to New Orleans, where Walter took a job as a banker.

''I consider New Orleans as home,'' says Stuart, ''because between birth and high school graduation, it's where I spent the most time.''

For the Stuarts, educating their children was paramount. All five sons received advanced degrees. In addition to Robert, another became a doctor, one a lawyer, one received a master's of business administration and the other a master of fine arts.

Robert attended Jesuit High School in New Orleans, whose most famous alums include singer Harry Connick Jr. and baseball player Rusty Staub, and got a traditional liberal arts education. He took Latin, Greek, math and physics and was urged to attend a Catholic university.

He picked Georgetown University.

Stuart says being in Washington, D.C., at the height of the turbulent 1960s—1966 through 1970—was exciting. ''You just had the feeling that you were living in the center of the universe. I got at least as much education from reading The Washington Post every day as I did going to school and it (reading the Post) was a lot cheaper.''

He, of course, did the hippie thing. He grew his hair out and had a mustache, which he's shaved only once since then, and believed that the Vietnam War was wrong. Stuart recalls a very moving protest he participated in that involved marching past the White House, shouting the name of a dead soldier and then putting the name of the soldier in a casket at the Capitol.

''It took hours and hours to finish naming all those soldiers, and I think it served as a preview of the Vietnam War Memorial,'' he says.

''My father thinks it was unfortunate that I lived in Washington at that time because now I question government. I'm more prone to say, 'Why should we do that?' than I am, 'My country, right or wrong.' But I am an American and think I'm as patriotic as people who don't think about things.''

CHOOSING A NEW FRONTIER

Stuart went from Georgetown straight into medical school at Johns Hopkins University in Baltimore.

When he was in his first year, he became acquainted with the chief resident in urology. Stuart asked why he had chosen urology, and the resident said it was because he was influenced by a urology professor in school.

''I can remember saying to myself: 'That won't happen to me.' I vowed to pick my specialty entirely on rational grounds and, of course, the exact opposite happened.

''I ran into some people in what was then a new field, oncology. I thought these guys were like trying to climb Mount Everest with no oxygen and no tools. To me, what they were trying to do was monumental because back then cancer was a death sentence. Everybody died from it. These guys were determined that things were so bad that they had to get better and that they were going to make it happen . . . I was personally inspired.''

At the time—the mid-1970s—there was no standard therapy for cancer, Stuart says.

Another inspiration came as a third-year med student. He volunteered for a rotation on the oncology in-patient service. His instructor assigned him only one patient because she was so sick, suffering from acute myeloid leukemia, or AML.

''I couldn't do much as a student, but I basically stayed up all night with her. She died the next afternoon and I was shattered. . . . My instructor said to me that AML was the worst leukemia of all and 'don't take it personally.' But I did take it personally.''

After doing his internal medicine residency at Johns Hopkins, the school hired him as a faculty member in 1979. Stuart focused on acute leukemia and bone-marrow transplantation, which he admits remains ''the thing that challenges me most today.''

About the same time, Stuart and another doctor began studying and treating patients with aplastic anemia, a rare disease where the bone marrow simply fails and stops producing red blood cells. While not a cancer, its standard therapy at the time was a bone-marrow transplant.

They also developed alternative therapies and worked on a 7-year-old, whose father later started a foundation focusing on research that has made numerous advances in treating the disease. ''One of the most satisfying things about having a career in medicine is looking at the progress that's been made,'' Stuart says of the improving rates of survival for both AML and aplastic anemia.

MAKING A MARK AT MUSC

In 1985, a friend and ''brilliant scientist,'' Dr. Makio Ogawa at the Veterans Administration Hospital in Charleston, asked Stuart to interview for MUSC's new hematology/oncology division. Ogawa, a bone-marrow researcher, had met Stuart on a few trips to Johns Hopkins.

''At the time, I had no interest in leaving Johns Hopkins, but there was something about Charleston and the people at MUSC that made me change my mind,'' says Stuart. ''On July 1, 1985, the entire program consisted of me, a lab tech and a secretary. I had to recruit physicians and create a training program.''

It didn't take long to get the ball rolling.

Two years later, Stuart led a team in performing the first bone-marrow transplant surgery in the state, and in another two years, Stuart was among a group boarding a plane for Washington, DC, to make a pitch for federal funding for a new cancer center in Charleston.

U.S. Sen. Fritz Hollings, D–S.C., who did not attend those first meetings, would embrace the effort and help usher through a $16.8 million federal grant to pay for a building to house what later would be called the Hollings Cancer Center.

''It got us in the ball game,'' Stuart says of the grant's ability to kick-start the cancer program in Charleston, leading to comprehensive cancer care and eventually the start of clinical trials at the center. ''It was a very sophisticated undertaking.''

THE CANCER PATIENT

In 1991, the doctor became the patient when Stuart was diagnosed in the early stages of kidney cancer.

Because of early detection and a rather fortunate location at the tip of the kidney, Stuart was spared losing the organ. He also didn't have to endure chemotherapy because the treatment is not useful with kidney cancer.

Still, the experience made Stuart a better doctor.

''It definitely changed me. I used to be distant from my patients. I maintained what I thought was a professional separation between doctor and patient,'' says Stuart. ''After having cancer, I found myself thinking more about encouraging people. Now, I consider what can I say to a patient that's truthful and gives them hope.''

He also started hugging patients and calling them by their first names, practices that never occurred before he was a cancer patient.

During the same year, Stuart married Charlene McCants, who had been the chief financial officer (later CEO) at MUSC and with whom he initially had a rocky professional relationship. At one point, Stuart would not return McCants' phone calls.

Yet it was she who was instrumental in having Medicaid and Medicare recognize MUSC as a transplant facility. In doing so, insurance providers would help pay for transplant procedures.

Stuart and McCants both had been married once before and had children from their first marriages.

Stuart's marriage to Gail Stuart, the current dean of the MUSC nursing school, had lasted 18 years. They have two children: Morgan, now 26 and a medical student at Georgetown; and Elaine, 24, an editorial assistant at Child magazine in New York. McCants had been married to Robert H. McCants for 22 years. Their son, R. Darren McCants, is business manager for the physiology/neuroscience department at MUSC.

''All three of our children turned out really well,'' says Stuart.

Daughter Elaine recalls her father early in her childhood as being ''cerebral and quiet'' and seemingly ''impenetrable.'' She adds, ''Looking back now, I realize that he may have been quiet because he lost a patient. You never knew because he made a big effort not to let what was going on at work affect us at home.''

Elaine Stuart, who attended the North Carolina School of the Arts and was a ballerina with the Richmond Ballet, says that while her father was deeply involved in

work, he made sure he was there for important events, such as her dance recitals.

''He wasn't all that liberal with praise, so when you earned it, it really meant something. . . . Growing up, he never pushed us that hard. In doing so, he instilled in us a great sense of self-motivation. That was an effective way of driving us, and I attribute a lot of what drives me today to that.''

CANCER STRIKES AGAIN

In 1997, the couple moved to Riyadh, Saudi Arabia, when Stuart received the opportunity to be oncology department chairman at the King Faisal Specialist Hospital and Research Centre.

Three years later, though, cancer entered the personal realm of the Stuarts' lives yet again. Charlene became desperately sick and was diagnosed with the same leukemia, AML, that had taken the life of the patient Stuart had watched over as a med student 25 years before.

''My first thought when I learned the diagnosis was that it was cosmic irony—that this almost can't be happening,'' says Stuart. ''In Saudi Arabia, one of my colleagues came up to me, very stricken, and said, 'I just heard your wife has AML.' I remember thinking, 'No, it's the other way around. AML has my wife.'''

AML, Stuart notes, is still nearly lethal—only one-third who are diagnosed with it survive. The couple came back home to Charleston for treatment and stayed.

''The blackest time of my life was when she relapsed after three treatments,'' he says.

The only recourse was to use marrow from her brother, David. The transplant was successful and she is in remission.

His care for her is a testament of his love. Of the 81 nights she was in the hospital, Stuart spent all but the first night on a cot next to her in the hospital room. Then, he took four months off from work, the longest stint of not working as a doctor, to become his wife's primary caregiver.

''It was the hardest thing I've ever done,'' he says now.

CYCLING FOR SANITY

In the mornings of that uncertain time, Stuart took a break by riding his bike. The exercise, he said, helped him ''keep my head straight.''

But he first started cycling out of necessity. It was cheap transportation in his Georgetown days. For two years, 1983–1985, Stuart was a licensed bicycle racer, but ''wasn't good'' due to his late start. He backed off cycling after arriving in Charleston because of his career demands, but started back in earnest after his cancer diagnosis in 1991 and began participating in charity rides.

He continued cycling during the 1990s and even rode with a group of doctors in the Saudi Arabian desert.

Perhaps his first true cycling feat came last year during the first Tour of Hope. Stuart made the first cut of 50 for the inaugural tour ride across the country, but wasn't chosen for the final group. He, however, was invited to Washington, DC, for the final day's ride and a chance to meet Lance Armstrong.

Because he wasn't picked the first year and because he was unsure the sponsors would take on tour expenses again, Stuart didn't think the opportunity would come his way again. Even when the sponsors announced the tour would happen again, he applied thinking that his chances weren't good. The Stuarts even booked a vacation in the south of France at the same time as one of the tour's training camps, thinking that he wouldn't be picked.

But he was picked. When he heard the news, his feelings were mixed.

''At first, I was really fired up. Then, I was really scared. I'm not an elite cyclist, though I'm probably better than your average Joe,'' says Stuart, noting that the five, four-person relay teams have only a week to get from Los Angeles to Washington.

He says the organizers also changed the route and made it harder, specifically going over both the Sierras and the Rockies in a route connecting Las Vegas, Denver, Omaha, Chicago, Cleveland, Pittsburgh and Baltimore to DC.

Stuart, however, is getting some expert training advice and equipment, including a custom-fitted Trek road bike that he'll get to keep after the tour. He's already flown to Princeton, N.J., the home of Bristol-Myers Squibb, and Colorado Springs, home of Carmi-chael Training Systems (Chris Carmichael is Armstrong's coach), for training weekends. He's to fly back early from his family vacation in France to go to Madison, Wis., home of Trek, in August for a final meeting before the fall ride.

Meanwhile, his current regimen consists of about 11 hours of training a week, or about 200 miles. It will peak out at about 16 hours a week. That's a lot of time on those small bike seats.

Stuart is enjoying the experience. The group of riders—of whom 13 are cancer survivors, five are physicians and two are oncology nurses—already are feeling close to one another. Stuart has been getting 10–15 group e-mails per day from them.

Stuart is among the millions of Americans who are wishing Armstrong wins his sixth Tour de France, in part because it will make the Tour of Hope an even higher profile event.

LIVING, LOVING LIFE

One of Stuart's closest cycling buddies, Clark Wyly, has grown to know him well, as they regularly meet on Saturdays and Sundays for rides ranging from 30 to 60 miles.

''He is a very caring physician,'' says Wyly. ''He takes each of his patients so seriously and so personally. When they don't make it, it's really hard on him. . . . Rob is not extroverted, but once you get to know him, he's very personable and easygoing. I have never seen him lose his temper and get out of control.''

Wyly adds that Robert and Charlene live each day fully.

For those who know them, the couple have a deep, loving relationship. For a former CEO and the extrovert in the couple, she admits to truly enjoying ''loving, supporting and caring for him'' and describes herself as ''his professional valet.''

''I'm so devoted to him and I love taking care of him,'' she says.●

## HONORING BEN MONDOR OF THE PAWTUCKET RED SOX

● Mr. CHAFEE. Mr. President, I would like to share with my colleagues a story of a man who has dedicated more than 27 years of his life to giving Rhode Island's baseball fans a team that they are proud to call their own.

If a poll were taken asking Americans to name the best that Rhode Island has to offer, it is fair to say that most would think of the Newport mansions, or the beaches of South County, or perhaps the Providence renaissance. While all of these sites are important components of our tourism business, I would say that for native Rhode Islanders, there is an attraction in the working class community of Pawtucket that has an even more prominent place in their shared experience. Amid the tenement houses and old textile and wire mills of the Blackstone Valley stands McCoy Stadium, home to the Pawtucket Red Sox since 1973.

It is difficult for visitors to imagine now, but this minor league franchise got off to a very shaky start. In the mid-I970s, the team was struggling both on and off the field. Attendance was poor, the stadium was in terrible disrepair, and bankruptcy was looming. Players who were assigned there saw it as a necessary penance before making it to the big leagues and hoped to get out as soon as possible. It looked as if the PawSox would not last too long in AAA ball.

At that time, Ben Mondor, a man who had quit working in his late 40s after a successful career in business, was happy with retired life. Occasionally, he would catch a PawSox game, but as he has said, he didn't know a thing about baseball. When encouraged by his friend and former Boston pitcher, the late Chet Nichols, to rescue the PawSox, Ben refused. ''Why would I want to buy a baseball team?'' he asked. But Ben had plenty of experience stepping in to save struggling enterprises, and repeatedly had turned another person's failure into a successful venture. Finally, after much prompting from the brass of the parent club, he took over the team in 1977.

And so Ben went to work. He sought to instill pride in the team, and build an organization that would command both local and national respect. More than that, he wanted to give people of modest means a place where they could take their families for a night out. It didn't have to be fancy, but he would insist on a safe, family atmosphere, where young children could come and eat a hot dog or maybe a snow cone, shout ''we want a hit!'' when their favorite ballplayer came to bat, and learn to love the game of baseball.

Certainly, Ben faced an uphill climb, but he and his loyal staff embarked on a long campaign to renovate McCoy Stadium and reinvigorate the franchise. As years passed, more and more of the creaky wooden seats were replaced, the field was improved, and the concession stands and restrooms were expanded. It took time, but the attendance steadily climbed. Whole school buses filled with eager young fans poured in, not just from Rhode Island, but Cape Cod, and Connecticut, and greater Boston—even a few from New Hampshire. And Ben Mondor kept his word to the working class family: amazingly, 20 years went by without an increase in the price of a general admission ticket. Only in 1999, after a $14 million renovation and expansion of McCoy Stadium did he finally relent and agree to charge an extra dollar for tickets to a game. Even today, a family of four can still take in a PawSox game for just $20.

Ben Mondor's team gives back to the community in many other ways. There

are the free youth clinics, in which Pawsox players and coaches offer children instructions and tips on the game. There is also a Candy Hunt on Easter and roses for every mom on Mother's Day. The McCoy Stadium fireworks, which most recently lit up the sky for three nights on the Fourth of July weekend, are legendary.

After 27 years, Ben Mondor's dream has come true. A team that struggled to draw more than 1,000 fans to a game in the early days now fills a 10,000-seat park to nearly 90 percent of capacity, the best mark in the International League. One pitcher for the Boston Red Sox, recently called up from Pawtucket, praised McCoy Stadium as ''the best minor league place that I've ever played.'' It has hosted high school baseball championship games, the U.S. Olympic team and the National Governors Association. Tomorrow night, McCoy Stadium will host the AAA All-Star Game, the crowning achievement of Ben's long, successful career in baseball. And yet, my guess is that Ben takes the greatest satisfaction from knowing that on any warm summer night, he can find thousands of blue collar workers and their young children enjoying a game played by past and future big leaguers, cheering with each crack of the bat.

In the movie Field of Dreams, there is a scene in which James Earl Jones's character, Terence Mann observes, ''The one constant through all the years has been baseball.'' In spite of all the challenges that have come along over the course of three decades, the changes in the park, and the changes in our society, baseball has indeed been the one constant at McCoy Stadium. And in large measure, we have Ben Mondor and his love of the game and his love of people to thank for it.

Ben Mondor is a hero in Rhode Island, and when he steps down from running the PawSox this summer, he will leave behind a remarkable legacy. I know my colleagues join me in saluting Ben on his well-deserved retirement.●

## IDAHO STATE VETERANS CEMETERY

● Mr. CRAPO. Mr. President, I rise today to acknowledge a very special event happening in Idaho on July 31. For my colleagues in the Senate who have never been to Boise, ID, I will describe a little of what that part of my State looks like.

On a clear day, miles stretch out before you bounded to the south by the Snake River Valley and distant mountains, to the east and west by a vast expanse of open sky, and behind you to the north, by foothills rising to meet their less-weathered relatives.

The wind blows with reassuring regularity, and it seems that in this western meeting place of land and sky, at once comfortingly familiar and awe-inspiring, it is indeed an appropriate place to rest our fallen warriors of freedom and pay our respects and tribute to their sacrifices.

The Idaho State Veteran's Cemetery represents the vision and hard work of many dedicated Idahoans. These men and women have focused their energy and donated their time and money to see this tremendous project to fruition. An idea that for many years was in the hearts of concerned patriots, the cemetery is the first of its kind to be built in Idaho, and its construction allows Idaho to finally join the rest in having a state veterans' cemetery.

Gazing out at this vista of the junction of earth and sky, and the visible freedom of wide open space causes us to reflect upon the freedom that our country stands for; the freedom for which the men and women who will rest here committed their lives, some ending either much too young in combat or others after fulfilling and long lives. In this time of sacrifice by yet another great generation of brave young men and women, this place gives comfort and exists as a testament to the age-old ritual of caring for those that have gone before us, in a proper and appropriate military manner that reflects their sacrifice, sense of duty and selfless devotion to the cause of liberty.

This place and the people for whom it is preserved remind us that freedom is eternal, and their and our living and dying are not in vain.●

## IN MEMORY OF EDWARD F. MILES

● Mr. LEAHY. Mr. President, I memorialize the life of Edward ''Ed'' Miles, a decorated Vietnam veteran who heroically turned his war experience into a mission of compassion for victims of conflict around the world. Ed Miles died on January 26, 2004.

I first met Ed through his advocacy on behalf of war survivors—work that embodied the ideals of the Leahy War Victims Fund, which was established in 1989 to respond to the needs of innocent victims of conflict in developing countries. Despite painful injuries suffered during the war in Vietnam that left him a bilateral amputee, and the challenges of working in a country reeling from Pol Pot's genocidal Khmer Rouge regime, Ed persevered and set up a rehabilitation clinic for landmine survivors and other war victims that was the first of its kind in Cambodia. Today it is recognized as Cambodia's national rehabilitation center and a model for others around the world.

Ed is perhaps best remembered for this work through his involvement with Vietnam Veterans of America Foundation, VVAF, and the International Campaign to Ban Land Mines, which received the Nobel Peace Prize in 1997 for its advocacy to eliminate the scourge of landmines.

As an associate director of VVAF, Ed traveled throughout the world raising funds, generating medical research and support, and, finally, building and staffing a prosthetics clinic for amputees at Kien Khleang, outside Phnom Penh, Cambodia in 1991. Since its inception, this project has produced 15,000 prosthetics, orthotics and wheelchairs for landmine survivors and other war victims. In addition, since Ed's initial pioneering and humanitarian efforts in Cambodia, VVAF has opened rehabilitation clinics in Vietnam, Angola, Ethiopia, Kosovo and elsewhere in Central America and Sub-Saharan Africa. Thousands of people with disabilities, many of whom had been treated as social outcasts, recovered their mobility and their dignity because of Ed Miles.

Ed's personal mission to help war survivors was undoubtedly the result of his own war experience. In April 1969, as a Captain and Military Advisor, Special Forces, United States Army, Ed was wounded in an ambush outside Cu Chi near the Cambodian border. He stepped on a landmine and lost both of his legs above the knee, suffered severe bone, nerve and muscle damage to his arm and later lost one of his eyes to infection.

As a result of his service in Vietnam, Ed received the United States Army Silver Star for Bravery, the Bronze Star, the Purple Heart, the Vietnamese Cross of Gallantry, the Vietnamese Campaign Medal, the Air Medal, the Good Conduct and the Combat Infantryman's Badge.

After returning home, Ed became an active critic of the Vietnam War, cofounding Veterans Against the War. Yet despite the severity of his injuries, years of hospital treatment and his enduring disabilities, he also completed his education, receiving his Masters of Public Administration from New York University. Ed worked as an Outreach Counselor for Vietnam veterans with Post-Traumatic Stress Disorder. In 1989, he was one of the first Americans to return to Vietnam since the war ended. In fact, he was featured on ''Nightline'' visiting the site where he was wounded.

Ed continued his quest for peace and reconciliation with America's former enemy through VVAF, continuously lobbying the United States Congress and the White House to normalize diplomatic and trade relations with Vietnam, which ultimately occurred in 1995. He was a featured speaker throughout the United States, and a visiting guest speaker at local schools where he described his Vietnam experience and the historical significance and lessons of the Vietnam War.

For the 35 years since being wounded and up until his life's end, Ed exhibited a selflessness, determination and compassion beyond compare. Despite the daily struggles and pain from his injuries, I never once heard Ed complain about his own misfortunes. He was soft spoken and unassuming to a degree rarely seen, but he also harbored a fiery passion for ridding the world of injustice and senseless conflict. Ed was an inspiration to me in my efforts to ban landmines, and to everyone who knew him.

Family, friends and colleagues throughout the world responded with shock and deep sadness for the loss of this true humanitarian and hero. In his gentle but powerful way, Ed touched the world one person at a time, and I consider myself very fortunate to have been one of them.

Ed was born in Brooklyn, NY, and was buried there with his parents and Irish ancestors dating from 1860. He grew up in Manhasset, NY and throughout his free-spirited life, had homes in Phnom Penh, Cambodia, Augsburg, Germany, Kinsale, Ireland, Greenwich Village, Sag Harbor, Southhampton and Stamford, New York, Wyoming, Colorado, and Wilton, Connecticut. He is survived by sons Ed, of Boulder, Colorado, and Daniel of Southhampton, New York; a daughter, Sarah of New York City; sisters Mary Teresa Jackson of Raleigh, North Carolina, Michele Dunn of Wilton, Connecticut, and Christine Kuhl of Southhampton, New York.

The world is a better place because of Ed Miles, and his generous heart and many contributions will always be remembered.●

## IN MEMORIAM OF MARY MIYASHITA

● Mrs. BOXER. Mr. President, I share with my colleagues, the memory of a remarkable woman, Mary Miyashita of Whittier, CA, who died on Sunday, April 25, 2004. Mary was 83 years old.

Mary Miyashita was born in Los Angeles. She grew up in a traditional Japanese household until she was sent as a young woman to internment camps in Santa Anita, CA and Gila, AZ during World War II. While in camp, Mary met Eleanor Roosevelt and was introduced to the work of the Quaker organization: The American Friends Service Committee. This organization helped obtain early release of college-aged persons from camp. These life-changing events later gave Mary the drive and persistence to become involved in social causes and politics.

Mary was an extraordinary woman, with great devotion to her family, her community and our Nation. Mary was a beloved wife and mother. She was admired by many for her strength and conviction. Mary was dedicated to making a difference in the world, and she did. Mary had great passion and believed in basic kindness to all humans.

Mary's work in politics helped shape our Nation. Throughout the years, she was involved in many important history changing causes, such as civil rights movements, peace demonstrations, education and literacy drives. She was a founding member of the first Asian Pacific Caucus, and a founding member of the Women and Children's Crisis Shelter in Whittier. Mary was also a member of the executive boards of the League of Women Voters, Meals on Wheels, Women for Peace, Whittier Area Fair Housing Committee and the Whittier Area Education Study Council.

Mary Miyashita is survived by her husband, Kazuo and her three children, son, David Miyashita, and daughters, Jean and Carole Miyashita, and son-in-law, John Martinez. She was an exceptional individual.

I am proud to recognize the legacy of Mary Miyashita. We can take comfort in knowing that future generations will benefit from her courage, her vision and her leadership.●

## MESSAGE FROM THE HOUSE

At 2:56 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. 4766. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that pursuant to a request of the Senate, the bill (H.R. 1303) to amend the E-Government Act of 2002 with respect to rulemaking authority of the Judicial Conference, together with all accompanying papers is hereby returned to the Senate.

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At 5:30 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 bill, in which it requests the concurrence of the Senate:

H.R. 4759. An act to implement the United States-Australia Free Trade Agreement.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4755. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Appropriations.

H.R. 4766. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Appropriations.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4759. An act to implement the United States-Australia Free Trade Agreement.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2652. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 14, 2004, she had presented to the President of the United States the following enrolled bill:

S. 103. An act for the relief of Lindita Idrizi Heath.

## 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–8508. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report relative to the Waste Isolation Pilot Plant (WIPP) Land Withdrawal Act; to the Committee on Environment and Public Works.

EC–8509. A communication from the Chairman, Medicare Payment Advisory Commission, transmitting, pursuant to law, a report entitled ''Report to Congress: New Approaches in Medicare''; to the Committee on Finance.

EC–8510. A communication from the Acting Chief, Regulations and Publications Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Excise Tax Relating to Structured Settlement Factoring Transactions'' (RIN 1545–BB14) received on July 8, 2004; to the Committee on Finance.

EC–8511. A communication from the Acting Chief, Regulations and Publications Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Rents and Royalties'' (RIN 1545–BB44) received on July 8, 2004; to the Committee on Finance.

EC–8512. A communication from the Acting Chief, Regulations and Publications Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Health Care Provider Incentive Payments'' (Rev. Proc. 2004–41) received on July 8, 2004; to the Committee on Finance.

EC–8513. A communication from the Acting Chief, Regulations and Publications Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Republication of Rev. Proc. 79–61'' (Rev. Proc. 2004–44) received on July 8, 2004; to the Committee on Finance.

EC–8514. A communication from the Acting Chief, Regulations and Publications Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update Notice—Pension Funding Equity Act of 2004'' (Notice 2004–51) received on July 8, 2004; to the Committee on Finance.

EC–8515. A communication from the Acting Chief, Regulations and Publications Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Debit Cards Used To Provide Qualified Transportation Fringes Described Under Section 132(f) of the Internal Revenue Code'' (Notice 2004–46) received on July 8, 2004; to the Committee on Finance.

EC–8516. A communication from the Chief, Regulations Branch, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Extension of Port Limits of Memphis, Tennessee'' (CBP Dec. 04–22) received on July 7, 2004; to the Committee on Finance.

EC–8517. A communication from the United States Trade Representative, Executive Office of the President, transmitting, pursuant to law, documents related to the United States-Australia Free Trade Agreement; to the Committee on Finance.

EC–8518. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to

the Arms Export Control Act, the report of a license for the export of defense articles that are firearms sold commercially under a contract in the amount of $1,000,000 or more to the Philippines; to the Committee on Foreign Relations.

EC–8519. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–8520. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to assistance to Eastern Europe under the Support for East European Democracy (SEED) Act; to the Committee on Foreign Relations.

EC–8521. A communication from the Chairman, Consumer Product Safety Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–8522. A communication from the Chair, Board of Directors, Corporation of Public Broadcasting, transmitting, pursuant to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–8523. A communication from the Deputy General Counsel, Department of the Treasury, transmitting, a draft of proposed legislation entitled the ''Treasury Inspector General Consolidation Act of 2004''; to the Committee on Governmental Affairs.

EC–8524. A communication from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, a report relative to the Board's competitive sourcing activities; to the Committee on Health, Education, Labor, and Pensions.

EC–8525. A communication from the Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a report relative to the Department's commercial and inherently governmental activities; to the Committee on the Judiciary.

EC–8526. A communication from the Assistant Chief, Alcohol, Tobacco, Tax and Trade Bureau, Treasury Department, transmitting, pursuant to law, the report of a rule entitled ''San Bernabe and San Lucas Viticultural Areas'' (RIN1513–AA28) received on July 7, 2004; to the Committee on the Judiciary.

EC–8527. A communication from the Assistant Chief, Alcohol, Tobacco, Tax and Trade Bureau, Treasury Department, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Salado Creek Viticultural Area'' (RIN1513–AA69) received on July 7, 2004; to the Committee on the Judiciary.

EC–8528. A communication from the Acting Under Secretary and Acting Director, Patent and Trademark Office, transmitting, pursuant to law, the report of a rule entitled ''Changes to Representation of Others Before the United States Patent and Trademark Office'' (RIN0651–AB55) received on July 7, 2004; to the Committee on the Judiciary.

EC–8529. A communication from the General Counsel, National Tropical Botanical Garden, transmitting, pursuant to law, the audit report for the Garden for calendar year 2003; to the Committee on the Judiciary.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 894. A bill 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. A bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 2610. A bill to implement the United States-Australia Free Trade Agreement.

## 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. GREGG (for himself and Mr. SUNUNU):

S. 2651. A bill to authorize the establishment at Antietam National Battlefield of a memorial to the officers and enlisted men of the Fifth, Sixth, and Ninth New Hampshire Volunteer Infantry Regiments and the First New Hampshire Light Artillery Battery who fought in the Battle of Antietam on September 17, 1862 , and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself, Mr. DAYTON, and Mr. LEVIN):

S. 2652. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program; read the first time.

By Mr. BIDEN (for himself, Mr. SPECTER, Mrs. FEINSTEIN, Mr. KYL, Mr. HOLLINGS, and Mr. ALLEN):

S. 2653. A bill to make it a criminal act to willfully use a weapon with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, and for other purposes; to the Committee on the Judiciary.

By Mr. DODD:

S. 2654. A bill to provide for Kindergarten Plus programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH:

S. 2655. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the production of water and energy efficient appliances; to the Committee on Finance.

By Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida):

S. 2656. A bill to establish a National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself and Mr. AKAKA):

S. 2657. A bill to amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes; to the Committee on Governmental Affairs.

By Mr. DOMENICI (for himself, Mrs. FEINSTEIN, Mr. CRAIG, Mr. BINGAMAN, and Mr. DURBIN):

S. 2658. A bill to establish a Department of Energy National Laboratories water technology research and development program, and for other purposes; to the Committee on Environment and Public Works.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. STABENOW (for herself, Mr. LEVIN, and Mr. HATCH):

S. Res. 405. A resolution honoring former President Gerald R. Ford on the occasion of his 91st birthday and extending the best wishes of the Senate to former President Ford and his family; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 2335

At the request of Mr. REED, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2335, a bill to amend part A of title II of the Higher Education Act of 1965 to enhance teacher training and teacher preparation programs, and for other purposes.

S. 2338

At the request of Mr. BOND, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2338, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 2365

At the request of Mr. COLEMAN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2365, a bill to ensure that the total amount of funds awarded to a State under part A of title I of the Elementary and Secondary Act of 1965 for fiscal year 2004 is not less than the total amount of funds awarded to the State under such part for fiscal year 2003.

S. 2417

At the request of Mr. COLEMAN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 2417, a bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish care for newborn children of women veterans receiving maternity care, and for other purposes.

S. 2426

At the request of Mr. NELSON of Nebraska, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2426, a bill to amend title XVIII of the Social Security Act to clarify the treatment of payment under the medicare program for clinical laboratory tests furnished by critical access hospitals.

S. 2563

At the request of Mr. KOHL, the names of the Senator from Ohio (Mr.

DEWINE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 2563, a bill to require imported explosives to be marked in the same manner as domestically manufactured explosives.

S. 2575

At the request of Mrs. BOXER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2575, a bill to direct the Secretary of Agriculture to conduct research, monitoring, management, treatment, and outreach activities relating to sudden oak death syndrome and to convene regular meetings of, or conduct regular consultations with, Federal, State, tribal, and local government officials to provide recommendations on how to carry out those activities.

S. 2603

At the request of Mr. SMITH, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2603, a bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

S. 2609

At the request of Mr. KOHL, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2609, a bill to amend the Farm Security and Rural Investment Act of 2002 to extend and improve national dairy market loss payments.

S. 2628

At the request of Mr. AKAKA, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 2628, a bill to amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes.

S. 2634

At the request of Mr. SMITH, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2634, an act to amend the Public Health Service Act to support the planning, implementation, and evaluation of organized activities involving statewide youth suicide early intervention and prevention strategies, to provide funds for campus mental and behavioral health service centers, and for other purposes.

S.J. RES. 41

At the request of Mr. CAMPBELL, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S.J. Res. 41, a joint resolution commemorating the opening of the National Museum of the American Indian.

S. CON. RES. 90

At the request of Mr. LEVIN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. CON. RES. 106

At the request of Mr. CAMPBELL, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Oregon (Mr. SMITH) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Con. Res. 106, a concurrent resolution urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the presidential election on October 31, 2004.

S. CON. RES. 110

At the request of Mr. CAMPBELL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor 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. CON. RES. 119

At the request of Mr. CAMPBELL, the names of the Senator from Oklahoma (Mr. NICKLES), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Florida (Mr. GRAHAM), the Senator from Illinois (Mr. FITZGERALD), the Senator from Idaho (Mr. CRAPO), the Senator from California (Mrs. FEINSTEIN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. Con. Res. 119, a concurrent resolution recognizing that prevention of suicide is a compelling national priority.

S. CON. RES. 124

At the request of Mr. CORZINE, the names of the Senator from Illinois (Mr. DURBIN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Iowa (Mr. HARKIN) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. Con. Res. 124, a concurrent resolution declaring genocide in Darfur, Sudan.

At the request of Mr. BROWNBACK, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Con. Res. 124, supra.

S. RES. 389

At the request of Mr. CAMPBELL, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. Res. 389, a resolution expressing the sense of the Senate with respect to prostate cancer information.

S. RES. 401

At the request of Mr. BIDEN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. Res. 401, a resolution designating the week of November 7 through November 13, 2004, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 403

At the request of Mr. BAYH, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Washington (Ms. CANTWELL) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. Res. 403, a resolution encouraging increased involvement in service activities to assist senior citizens.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Mr. DAYTON, and Mr. LEVIN):

S. 2652. A bill to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program; read the first time.

Mr. DURBIN. Mr. President, those who are following the business of the Senate understand that just a few moments ago, we had a vote on the floor of the Senate on the proposed constitutional amendment dealing with same-sex marriage. The final vote, I think, was indicative of the feeling of this body. There were 48 who supported going forward with the debate on this amendment and 50 Senators who opposed it. Of course, 48 Senators does not meet the threshold requirement for approving a constitutional amendment, which is 67 Senators. So that gap of 19 Senators suggests this Senate does not believe it is appropriate for us to move forward on that type of constitutional amendment.

Many of the colleagues on both sides of the aisle spoke to this issue over the last several days and expressed their heartfelt feelings of the underlying issue of same-sex marriage and about the question of whether we should amend the Constitution. The vote today is, I think, a good indication that this is an issue whose time has not come. There is no issue in controversy which requires us to amend the Constitution of the United States of America.

One might ask, if this issue fell so far short, 19 votes short, of what it needed, why did we consider it? For obvious reasons. This debate was not about changing the Constitution. This debate was about changing the subject in the Presidential campaign.

It is understood that if you ask most American families what is important to them the politicians are worried about, they will talk about the obvious things: My job, the fact that my paycheck does not cover the necessities of my family, the cost of health insurance, the availability of quality health care, whether my retirement savings are going to be protected; I am concerned as well about the situation in Iraq; I would like to know when we will stop losing our soldiers, and what do we have ahead of us in terms of Iraq and the $1.5 billion which American

taxpayers spend each week in Iraq, how long will that go on? What could we do with $1.5 billion every week in the United States of America for our schools, for providing health care for our children, immunizations.

These are the obvious questions with which most families identify. But if the Presidential election campaign is waged on those issues, the White House and the Republican Party believe they are at a disadvantage because many people, in fact, an amazingly large percentage of Americans, say when asked, they feel our country is going in the wrong direction in terms of its economics to help working families, in terms of creating jobs, keeping good-paying jobs in America, dealing with the fact we still continue to be dependent on the Middle East and Saudi Arabia for our oil which draws us into a terrible situation of dependency, a terrible situation which taxes our resources.

That is what most Americans will identify as the major issues, and those are not issues on which this administration wants to campaign. So they attempted today to change the subject. They wanted to change the subject by changing the Constitution to deal with same-sex marriages, an issue which has not reached a level where it should even be addressed by our Constitution.

I will not go over that whole debate again, but the vote tells the story. The Republican Party in the majority in the Senate was unable to get a majority of votes to support the President's constitutional amendment. The rollcall tells the story. But there are other issues which, frankly, we should now move to, issues about which families across America do care.

I know as I travel around my State of Illinois and talk with families, businesses, labor union leaders, time and again the issue on their minds is the cost of health care in America.

I met 2 days ago in Chicago with a good friend of mine who heads up one of the major labor unions. It is a labor union which represents people who work at grocery stores, United Food and Commercial Workers. I talked with him about his problems.

He said: Senator, virtually every strike we have, virtually every contract negotiation is over the cost of health insurance. We get our workers 50 cents more an hour, and they don't see a penny of it. It all goes into health insurance, and there is less coverage this year than last year. They are upset with their labor leaders and upset with their employers.

Then you talk with businesspeople, businesses small and large, and I hear the same story, businesses which say: We are mom and pop, and we can no longer afford health insurance for the people who work for us; it is just too expensive.

There is another element in this whole equation which we cannot overlook, and that is the cost of prescription drugs. The cost of prescription drugs is not only driving the cost of health insurance to record levels, but it is also pushing a lot of people of limited family means into terrible choices: whether they can afford to buy the prescription drugs that will keep them healthy and, if they do, whether they will have to sacrifice the necessities of life. That is a real issue. That is an issue this campaign ought to be about. Would it not be refreshing if the debate of the week was not over same-sex marriage and its impact on families but the cost of health care and the cost of prescription drugs and their impact on families? I think that is what the voters are waiting for.

If they have any frustration with those of us in public office, it is the fact we talk past them, over them, and around them and never direct to the issues about which they care.

Today I am joining Senator LEVIN of Michigan and Senator DAYTON of Minnesota in introducing S. 2652.

We are going to work to put this bill on the Senate calendar under rule XIV so that Senator FRIST can call it up for debate. In other words, what I am trying to do is to accelerate consideration of this bill to blow past all the political issues and the political rhetoric to get into this legislation. The Democratic leader in the other body is working to discharge a companion bill so they can consider it in an expedited manner.

This bill is called the Medicare Prescription Drug Savings Act. We need to expedite this bill. We need to put it on the calendar. We need to stop wasting time on issues going nowhere because seniors and low-income individuals are facing escalating prescription drug prices that are really hurting them personally and diminishing their Medicare drug benefits. Instead of considering bills that do not have the votes to pass, like the one we just finished, we should consider something that is an urgent priority for Americans. Whether one lives in a blue State, a red State, or a purple State, whether one is in a battleground State or it is a State that is decided, they are going to find seniors concerned about the cost of prescription drugs. This is an issue that is bipartisan. It is an issue that affects virtually every family. Over the past 5 years, prescription drug prices have risen between 14 and 19 percent every single year, 5 times the rate of inflation.

One particularly egregious example of drug price inflation in the United States is Novir, an essential ingredient in the HIV cocktail to deal with the HIV/AIDS crisis. The price of an average dose of Novir went up 400 percent this year from $1,600 a year to more than $7,800. That is more than 10 times the cost of the same drug in Canada or in Europe. Americans are paying 10 times the cost of Novir for HIV patients in the United States as the price that is being paid in Canada and Europe.

Last month, the AARP released a study examining prescription drug prices for the 12-month period ending in March 2004. The study revealed that the prices charged by pharmaceutical companies to wholesalers for the top brand-name drugs used by seniors increased at a rate of 7.2 percent. That is faster than the 2 previous years, which is troubling given that inflation actually fell during that same period of time.

Drug discount cards have been suggested as the answer for this problem, but they are not. A fact sheet sent out by the Department of Health and Human Services to 40 million Medicare beneficiaries said that a discount card with Medicare's seal of approval can help save 10 to 25 percent on prescription drugs.

Now, this is the administration plan, a discount card under Medicare for prescription drugs that could save 10 to 25 percent. Well, after the same Department published the drug card prices in May, the Chicago Tribune newspaper looked at what these cards would mean in a suburb of Chicago, the city of Evanston. The Tribune compared the prices at pharmacies in Evanston with what seniors will save with drug discount cards. Take a look at it.

In some cases, the people in Evanston, IL, will actually save less without the card. The drug Lipitor, with the discount card, is $67.07. The lowest retail price, $68.99. Savings, $1.92, or 3-percent savings. Celebrex, 2 percent. Norvasc, in fact, costs more under the discounted card. So this so-called discount card seems to be of little value with drugs that are very popular and well used and prescribed to, such as Lipitor, Celebrex, and Norvasc.

The lack of significant savings from the discount cards that are being touted by the administration is not unique to Illinois or the city of Evanston. Since President Bush announced the idea of a drug discount card in July of 2001, top selling prescription drugs have experienced double-digit increases, eroding any savings that might come from the card.

Remember when the Bush administration said their discount cards would save seniors 10 to 25 percent? Well, price increases are eroding savings. Take a look at what happened to these drugs: Celebrex for arthritis pain went up 23 percent; Coumadin, a blood thinner, 22 percent; Lipitor, 19 percent; Zoloft, 19 percent; Zyprexa, 16 percent; Prevacid, 15 percent; and Zocor, 15 percent.

The prescription drug discount card is not even really keeping up with the inflation built into prescription drug prices.

Some of my colleagues may say it is not important that the drug card is not producing much savings because the real benefit will start in January of 2006. Unfortunately, rising drug prices will erode that benefit, too.

I will tell my colleagues about one of my constituents. Alois Kessler of Skokie, IL, has $3,200 in drug costs, and his income, which is fixed, is $28,500. Assuming prescription drug prices continue to rise as we have seen them rise

and Mr. Kessler stays with the same medication he is currently taking, his drug costs will be approximately $4,800 by 2006, the first year of the new Part D benefit. His income will rise about 3 percent a year. So he will have drug prices at $4,800 and an income of $31,000 a year.

The new program reduces his cost by $1,080 in the first year, so he will still have to pay out-of-pocket $2,120. By 2015, assuming he is still taking the same medication, his drug costs will reach $17,000, and his income will only have risen to around $40,400. One just cannot keep up with an inflation protection in their Medicare or retirement income against drug price increases of this kind.

What can we do about it? What we can do about it is something this bill proposes, and it is something very basic. There is a lot of talk in Congress today about bringing drugs in from Canada and other places. I am open to that conversation, anything to provide relief to seniors and people on limited incomes trying to buy lifesaving drugs.

Look to the north. Canada selling American drugs made in America, inspected in America, approved in America, with research in America, for sale in Canada turn out to be a fraction of the cost of what they are in the United States. With just 2 percent of the worldwide pharmaceutical market, Canada cannot supply the United States no matter how many busloads of seniors we send there.

The United States has 53 percent of the worldwide prescription drug market. Half of it is made up of Medicare beneficiaries. Think about this for a moment. If Medicare, the program that covers seniors, were to sit down with major pharmaceutical companies and bargain for the prices of the drugs, think about their bargaining power. They have the ability to bring prices down for Americans for drugs sold in America rather than reimported in the United States.

The prescription drug benefit bill we passed expressly prohibits Medicare from negotiating for lower prices. That is something the pharmaceutical companies wanted, and they won. They won it at the expense of American consumers.

Today, the Veterans' Administration and the Department of Defense negotiate for VA drug prices and cut down the cost of drugs by almost 50 percent. Take a look at some of these popular drugs and the difference between what is paid in the drugstores of America and what the Federal Government pays for the same drug: Xalatan eyedrops, $41 under the negotiated price of the VA, and $101 is what is paid in the drugstore; Celebrex, the drug we talked about earlier for arthritis, $108 on the Federal Supply Schedule and $173 at the drugstore; Lipitor for cholesterol, $215 in the Federal system, $446 over the counter; Plavix, $257 negotiated, and over-the-counter, $593.

Once you put the bargaining power of the Federal Government behind price negotiations, the prices come down. People can afford the drugs. Families can afford them. The cost of health insurance comes down, but the profits for the drug companies come down, too. That is why this Congress, under the thrall of that special interest group, has refused to give Medicare the power to negotiate.

I will give one specific example we have lived through on Capitol Hill. Many people rail about what happened with the anthrax scare a few years ago. There was a suggestion that the drug Cipro would be used as an antidote to any ill-effects caused by anthrax. We found out Cipro was an expensive drug, and Secretary Tommy Thompson said he would negotiate with the Bayer Company, the company that makes Cipro, to lower prices.

Look what happened when Secretary Thompson tried to do that. He said:

> Everyone said I wouldn't be able to reduce the price of Cipro. I am a tough negotiator.

What was the market price when he went into it? It was $4.67 per pill for Cipro. When it was all said and done, we were paying 75 cents. When someone sits down with the drug companies and says, You are overcharging us, we won't pay it, look what happens. Yet when the seniors of America look for the same kind of hard-nosed negotiating to bring down costs for them, this Congress says no; we don't want to give Medicare the ability to negotiate to do the same thing Secretary Thompson achieved when it came to these Cipro tablets. Through negotiation, Secretary Thompson brought down the price of Cipro by 490 percent. Good news for the people who needed Cipro; bad news for the people who need Medicare. But we can't even ask him to stand up for senior citizens in America. Out of the question. Drug companies don't want to lose their profitability.

Incidentally, they are very profitable. Let me show you some charts. This indicates the profitability of Fortune 500 drug companies versus the profits for all Fortune 500 companies in the year 2002. Look at what drug companies on the red bars have done on profitability: 17 percent as opposed to 3.1 percent; in this chart, 27.6 percent to 10.2 percent. They are making money hand over fist. They are charging seniors and families across America record high prices for drugs. They are increasing the cost of those drugs every single year and passing them along directly, raising health insurance costs, making it more difficult for seniors to keep up with the drugs they need to stay healthy.

I think the bill I have introduced with Senators LEVIN and DAYTON answers the need. I believe the bill which we will attempt to put on the Senate calendar today, so we can vote it before we leave for anybody's convention, is going to go a long way toward helping America's seniors. The Medicare Prescription Drug Savings Act instructs the Secretary of Health and Human Services to offer a nationwide Medicare-delivered prescription drug benefit in addition to the PDP and PPO plans available in the 10 regions. We keep in place what is in the Medicare bill passed last year, we just add a new player. The new player is Medicare providing prescription drugs with negotiated prices. We set a uniform national premium of $35 for the first year for this prescription drug benefit, and we negotiate group purchasing agreements on behalf of beneficiaries who choose to receive their drugs through the Medicare-administered benefit. It is voluntary. Those who choose to receive their drugs will have negotiated lower prices. Those who enroll can stay enrolled as long as they want.

Not only will this bill provide seniors with lower cost drugs, it will give them a choice to enroll in a Medicare-delivered plan, cutting down on the confusion the privately delivered system has already created. Critics and the pharmaceutical industry would say my bill is about price controls and big government. How do you explain the Veterans' Administration? Aren't we saying for our veterans we want to bring down the cost of pharmaceutical drugs? Have you spoken to a veteran lately who has gone to the VA hospital to sign up for the monthly drug benefit because it is so attractive for him and his family? That tells me government can play an important role and have a voice in buying in bulk and bringing down costs.

Who supports this bill we are trying to bring to the calendar? The Alliance for Retired Americans, AFL–CIO, American Nurses Association, Campaign for America's Future, USAction, Consumers Union, the Service Employees International Union, AFSCME, the American Federation of Teachers, Families USA, the Center for Medicare Advocacy, and the National Committee to Preserve Social Security and Medicare.

If you don't think this is a timely issue, pick up this morning's New York Times and take a look at the front-page story. The bill we passed, signed by President Bush, has America running in the wrong direction. Front-page headline:

> Drug Law [signed by President Bush] Is Seen Leading To Cuts in Retiree Plans.

Let me read one or two paragraphs:

> New government estimates suggest that employers will reduce or eliminate prescription drug benefits for 3.8 million retirees when Medicare offers its coverage in 2006.

That is the plan we referred to earlier passed by Congress.

> That represents one-third of all retirees with employer-sponsored drug coverage, according to documents from the Department of Health and Human Services.
>
> No aspect of the new law causes more concern among retirees than the possibility they might lose benefits they already have.

That is what the administration offers us: discount cards which don't offer a real discount, the loss of prescription drug coverage already available for 3.8 million retirees, and, finally, a plan that is offered to seniors

that is almost impossible to describe and follow because it is so complicated in its minutiae and detail, and it does not include a provision that allows Medicare to bargain for the best prices, the same bargaining power which we use over and over again to help veterans and many other Americans.

Before the end of the day, we are going to ask that this bill be brought to the calendar. I don't know what else we will consider today, but if my colleagues in the Senate will go home and ask a random sample of anybody on the street corner, or in the shopping center, about the cost of prescription drugs and what it means, they will understand that whatever the next item of business might be in the Senate, it cannot really match in importance what this issue means to families across the United States of America.

I yield the floor.

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Mr. BIDEN (for himself, Mr. SPECTER, Mrs. FEINSTEIN, Mr. KYL, Mr. HOLLINGS, and Mr. ALLEN):

S. 2653. A bill to make it a criminal act to willfully use a weapon with the intent to cause death or serious bodily injury to any person while on board a passenger vessel, and for other purposes; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, I rise today to introduce the Reducing Crime and Terrorism at America's Seaports Act, along with Senators SPECTER, FEINSTEIN, KYL, HOLLINGS, and ALLEN. Today's bill is a revised version of legislation Senator SPECTER and I introduced last year, S. 1587. The bill benefits from the expertise of the Chairman and Ranking Member of the Judiciary Subcommittee on Terrorism, Senators KYL and FEINSTEIN. My colleagues have their own bill on this subject, S. 746, and I am grateful that they are original cosponsors of today's measure. The Ranking Member of the Commerce Committee, my good friend Senator HOLLINGS, has also been a leader in this area and today's bill incorporates suggestions made by him and his able staff. Senator SPECTER and I have worked long and hard on this issue, and it is my sincere hope and expectation that the bill we introduce today is a consensus measure that will swiftly pass the Senate this year.

Today, almost three years after the devastating attacks of September 11, our Nation's transportation infrastructure remains vulnerable to terrorist activity. American ports are critical to the nation's commercial well-being, and we must do all that we can to ensure that our laws keep pace with the threats that they face.

Recently, Homeland Security Secretary Ridge traveled to the Port of Los Angeles/Long Beach to announce that the Untied States was in full compliance with the International Ship and Port Facility Security Code, and that his department was working to meet the requirements of the Maritime Transportation Security Act. I welcome those announcements, but there is more we should be doing to protect our ports and close existing gaps in our criminal code. The bill Senator SPECTER and I introduce today starts to close those gaps.

Our bill will double the maximum term of imprisonment for anyone who fraudulently gains access to a seaport or waterfront. The Interagency Commission on Crime and Security at U.S. Seaports concluded that ''control of access to the seaport or sensitive areas within the seaports'' poses one of the greatest potential threats to port security. Such unauthorized access continues and exposes the nation's seaports, and the communities that surround them, to acts of terrorism, sabotage or theft. Our bill will help deter those who seek unauthorized access to our ports by imposing stiffer penalties.

Our bill would also increase penalties for noncompliance with certain manifest reporting and record-keeping requirements, including information regarding the content of cargo containers and the country from which the shipments originated. An estimated 95 percent of the cargo shipped to the U.S. from foreign countries, other than Canada and Mexico, arrives throughout seaports. Accordingly, the Interagency Commission found that this enormous flow of goods through U.S. ports provides a tempting target for terrorists and others to smuggle illicit cargo into the country, while also making ''our ports potential targets for terrorist attacks.'' In addition, the smuggling of non-dangerous, but illicit, cargo may be used to finance terrorism. Despite the gravity of the threat, we continue to operate in an environment in which terrorists and criminals can evade detection by underreporting and misreporting the content of cargo. Increased penalties can help here.

The legislation we introduce today would also make it a crime for a vessel operator to fail to slow or stop a ship once ordered to do so by a federal law enforcement officer; for any person on board a vessel to impede boarding or other law enforcement action authorized by federal law; or for any person on board a vessel to provide false information to a federal law enforcement officer. The Coast Guard is the main federal agency responsible for law enforcement at sea. Yet, its ability to force a vessel to stop or be boarded is limited. While the Coast Guard has the authority to use whatever force is reasonably necessary, a vessel operator's refusal to stop is not currently a crime. This bill would create that offense.

In addition, the Coast Guard maintains over 50,000 navigational aids on more than 25,000 miles of waterways. These aids, which are relied upon by all commercial, military and recreational mariners, are critical for safe navigation by commercial and military vessels. They could be inviting targets for terrorists. Our legislation would make it a crime to endanger the safe navigation of a ship by damaging any maritime navigational aid maintained by the Coast Guard; place in the waters anything which is likely to damage a vessel or its cargo, interfere with a vessel's safe navigation, or interfere with maritime commerce; or dump a hazardous substance into U.S. waters, with the intent to endanger human life or welfare.

Each year, thousands of ships enter and leave the U.S. through seaports. Smugglers and terrorists exploit this massive flow of maritime traffic to transport dangerous materials and dangerous people into this country. This legislation would make it a crime to use a vessel to smuggle into the United States either a terrorist or any explosive or other dangerous material for use in committing a terrorist act. The bill would also make it a crime to damage or destroy any part of a ship, a maritime facility, or anything used to load or unload cargo and passengers; commit a violent assault on anyone at a maritime facility; or knowingly communicate a hoax in a way which endangers the safety of a vessel. In addition, the Interagency Commission concluded that existing laws are not stiff enough to stop certain crimes, including cargo theft, at seaports. Our legislation would increase the maximum term of imprisonment for low-level thefts of interstate or foreign shipments from 1 year to 3 years and expand the statute to outlaw theft of goods from trailers, cargo containers, warehouses, and similar venues.

I thank my colleagues for their support of this measure, and I look forward to its prompt consideration by the full Senate.

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. 2653

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

**SECTION 1. SHORT TITLE.**

This title may be cited as the ''Reducing Crime and Terrorism at America's Seaports Act of 2004''.

**SEC. 2. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.**

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''or'' at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

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

''(3) any secure or restricted area (as that term is defined under section 2285(c)) of any seaport; or'';

(2) in subsection (b)(1), by striking ''5'' and inserting ''10'';

(3) in subsection (c)(1), by inserting '', captain of the seaport,'' after ''airport authority''; and

(4) in the section heading, by inserting ''or seaport'' after ''airport''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of

title 18 is amended by striking the matter relating to section 1036 and inserting the following:

''1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.''.

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

**''§ 25. Definition of seaport.**

''As used in this title, the term 'seaport' means all piers, wharves, docks, and similar structures to which a vessel may be secured, areas of land, water, or land and water under and in immediate proximity to such structures, and buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 24 the following:

''25. Definition of seaport.''.

**SEC. 3. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.**

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

**''§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.**

''(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

''(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

''(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or

''(B) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is false.

''(b) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Undersecretary for Border and Transportation Security of the Department of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

''(c) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

''(d) In this section—

''(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

''(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

''(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)); and

''(4) the term 'vessel of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)).

''(e) Any person who intentionally violates the provisions of this section shall be fined under this title, imprisoned for not more than 5 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

''2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.''.

**SEC. 4. USE OF A DANGEROUS WEAPON OR EXPLOSIVE ON A PASSENGER VESSEL.**

Section 1993 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting '', passenger vessel,'' after ''transportation vehicle'';

(B) in paragraphs (2)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider'' each place that term appears;

(C) in paragraph (3)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle'' each place that term appears; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider'' each place that term appears;

(D) in paragraph (5)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider''; and

(E) in paragraph (6), by inserting ''or owner of a passenger vessel'' after ''transportation provider'' each place that term appears;

(2) in subsection (b)(1), by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(3) in subsection (c)—

(A) by redesignating paragraph (6) through (8) as paragraphs (7) through (9); and

(B) by inserting after paragraph (5) the following:

''(6) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.''.

**SEC. 5. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.**

(a) VIOLENCE AGAINST MARITIME NAVIGATION.—Section 2280(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (H), by striking ''(G)'' and inserting ''(H)'';

(B) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (G), (H), and (I), respectively; and

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

''(F) destroys, seriously damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship;''; and

(2) in paragraph (2) by striking ''(C) or (E)'' and inserting ''(C), (E), or (F)''.

(b) PLACEMENT OF DESTRUCTIVE DEVICES.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding after section 2280 the following:

**''§ 2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce**

''(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or substance which is likely to destroy or cause damage to a vessel or its cargo, or cause interference with the safe navigation of vessels, or interference with maritime commerce, such as by damaging or destroying marine terminals, facilities, and any other marine structure or entity used in maritime commerce, with the intent of causing such destruction or damage, or interference with the safe navigation of vessels or with maritime commerce, shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited under this subsection, may be punished by death.

''(b) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding after the item related to section 2280 the following:

''2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.''.

(c) MALICIOUS DUMPING.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

**''§ 2282. Knowing discharge or release**

''(a) ENDANGERMENT OF HUMAN LIFE.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjoining shoreline with the intent to endanger human life, health, or welfare shall be fined under this title and imprisoned for any term of years or for life.

''(b) ENDANGERMENT OF MARINE ENVIRONMENT.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjacent shoreline with the intent to endanger the marine environment shall be fined under this title, imprisoned not more than 30 years, or both.

''(c) DEFINITIONS.—In this section:

''(1) DISCHARGE.—The term 'discharge' means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

''(2) HAZARDOUS MATERIAL.—The term 'hazardous material' has the meaning given the term in section 2101(14) of title 46, United States Code.

''(3) MARINE ENVIRONMENT.—The term 'marine environment' has the meaning given the term in section 2101(15) of title 46, United States Code.

''(4) NAVIGABLE WATERS.—The term 'navigable waters' has the meaning given the term in section 1362(7) of title 33, and also includes the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

''(5) NOXIOUS LIQUID SUBSTANCE.—The term 'noxious liquid substance' has the meaning

given the term in the MARPOL Protocol defined in section 2(1) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following:

''2282. Knowing discharge or release.''.

**SEC. 6. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.**

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by section 5 of this Act, is amended by adding at the end the following:

**''§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials.**

''(a) IN GENERAL.—Any person who knowingly and willfully transports aboard any vessel within the United States, on the high seas, or having United States nationality, an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited by this subsection, may be punished by death.

''(b) DEFINITIONS.—In this section:

''(1) BIOLOGICAL AGENT.—The term 'biological agent' means any biological agent, toxin, or vector (as those terms are defined in section 178).

''(2) BY-PRODUCT MATERIAL.—The term 'by-product material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

''(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 229F.

''(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 232(5).

''(5) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(f)(1).

''(6) RADIOACTIVE MATERIAL.—The term 'radioactive material' means—

''(A) source material and special nuclear material, but does not include natural or depleted uranium;

''(B) nuclear by-product material;

''(C) material made radioactive by bombardment in an accelerator; or

''(D) all refined isotopes of radium.

''(8) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

''(9) SPECIAL NUCLEAR MATERIAL.—The term 'special nuclear material' has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

**''§ 2284. Transportation of terrorists.**

''(a) IN GENERAL.—Any person who knowingly and willfully transports any terrorist aboard any vessel within the United States, on the high seas, or having United States nationality, knowing that the transported person is a terrorist, shall be fined under this title, imprisoned for any term of years or for life, or both.

''(b) DEFINED TERM.—In this section, the term 'terrorist' means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

''2283. Transportation of explosive, chemical, biological, or radioactive or nuclear materials.

''2284. Transportation of terrorists.''.

**SEC. 7. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.**

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 111 the following:

**''CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES**

''Sec.

''2290. Jurisdiction and scope.

''2291. Destruction of vessel or maritime facility.

''2292. Imparting or conveying false information.

''2293. Bar to prosecution.

**''§2290. Jurisdiction and scope**

''(a) JURISDICTION.—There is jurisdiction over an offense under this chapter if the prohibited activity takes place—

''(1) within the United States or within waters subject to the jurisdiction of the United States; or

''(2) outside United States and—

''(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(B) the activity involves a vessel in which a national of the United States was on board; or

''(C) the activity involves a vessel of the United States (as that term is defined under section 2(c) of the Maritime Drug Law Enforcement Act (42 App. U.S.C. 1903(c)).

''(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

**''§ 2291. Destruction of vessel or maritime facility**

''(a) OFFENSE.—Whoever willfully—

''(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

''(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), or destructive substance, as defined in section 13, in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

''(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any maritime facility, including but not limited to, any aid to navigation, lock, canal, or vessel traffic service facility or equipment, or interferes by force or violence with the operation of such facility, if such action is likely to endanger the safety of any vessel in navigation;

''(4) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(5) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

''(6) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365, in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(7) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

''(8) attempts or conspires to do anything prohibited under paragraphs (1) through (7):

shall be fined under this title or imprisoned not more than 20 years, or both.

''(b) LIMITATION.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the lawful transportation of hazardous materials.

''(c) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under title 18, imprisoned for a term up to life, or both.

''(d) PENALTY WHEN DEATH RESULTS.—Whoever is convicted of any crime prohibited by subsection (a), which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

''(e) THREATS.—Whoever willfully imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title, imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

**''§ 2292. Imparting or conveying false information**

''(a) IN GENERAL.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

''(b) MALICIOUS CONDUCT.—Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title, imprisoned not more than 5 years, or both.

''(c) JURISDICTION.—

''(1) IN GENERAL.—Except as provided under paragraph (2), section 2290(a) shall not apply to any offense under this section.

''(2) JURISDICTION.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the crime prohibited by this chapter, or by chapter 2, 97, or 111 of this title, to which the imparted or conveyed false information relates, as applicable.

**''§ 2293. Bar to prosecution**

''(a) IN GENERAL.—It is a bar to prosecution under this chapter if—

''(1) the conduct in question occurred within the United States in relation to a labor dispute, and such conduct is prohibited as a

felony under the law of the State in which it was committed; or

''(2) such conduct is prohibited as a misdemeanor under the law of the State in which it was committed.

''(b) DEFINITIONS.—In this section:

''(1) LABOR DISPUTE.—The term ''labor dispute'' has the same meaning given that term in section 113(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

''(2) STATE.—The term ''State'' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

''111A. Destruction of, or interference with, vessels or maritime facilities ..... 2290''.

**SEC. 8. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.**

(a) THEFT OF INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''trailer,'' after ''motortruck,'';

(B) by inserting ''air cargo container,'' after ''aircraft,''; and

(C) by inserting '', or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,'' after ''air navigation facility'';

(2) in the fifth undesignated paragraph, by striking ''one year'' and inserting ''3 years''; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: ''For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transhipment or otherwise.''.

(b) STOLEN VESSELS.—

(1) IN GENERAL.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

'' 'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.''.

(2) TRANSPORTATION AND SALE OF STOLEN VESSELS.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking ''motor vehicle or aircraft'' and inserting ''motor vehicle, vessel, or aircraft''.

(c) REVIEW OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this Act.

(d) ANNUAL REPORT OF LAW ENFORCEMENT ACTIVITIES.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this Act.

(e) REPORTING OF CARGO THEFT.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by no later than December 31, 2005.

**SEC. 9. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.**

(a) REPORTING, ENTRY, CLEARANCE REQUIREMENTS.—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking ''or aircraft pilot'' and inserting '', aircraft pilot, operator, owner of such vessel, vehicle or aircraft or any other responsible party (including non-vessel operating common carriers)'';

(2) striking ''$5,000'' and inserting ''$10,000''; and

(3) striking ''$10,000'' and inserting ''$25,000''.

(b) CRIMINAL PENALTY.—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended by striking ''$2,000'' and inserting ''$10,000''.

(c) FALSITY OR LACK OF MANIFEST.—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking ''$1,000'' in each place it occurs and inserting ''$10,000''.

**SEC. 10. STOWAWAYS ON VESSELS OR AIRCRAFT.**

Section 2199 of title 18, United States Code, is amended by striking ''Shall be fined under this title or imprisoned not more than one year, or both.'' and inserting the following:

''(1) shall be fined under this title, imprisoned not more than 5 years, or both;

''(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title, imprisoned not more than 20 years, or both; and

''(3) if an individual commits an act proscribed by this section, with the intent to cause death, and if the death of any person other than a participant occurs as a result of a violation of this section, shall be fined under this title, imprisoned for any number of years or for life, or both.''.

**SEC. 11. BRIBERY AFFECTING PORT SECURITY.**

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

**''§ 226. Bribery affecting port security**

''(a) IN GENERAL.—Whoever knowingly—

''(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent—

''(A) to commit international or domestic terrorism (as that term is defined under section 2331);

''(B) to influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

''(C) to induce any official or person to do or omit to do any act in violation of the fiduciary duty of such official or person which affects any secure or restricted area or seaport; or

''(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

''(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

''(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism

''shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) DEFINITION.—In this section, the term 'secure or restricted area' has the meaning given that term in section 2285(c).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

''226. Bribery affecting port security.''.

Mrs. FEINSTEIN. Mr. President, I rise today, along with Senators BIDEN, SPECTER, KYL, HOLLINGS and ALLEN, to introduce the Reducing Crime and Terrorism at America's Seaports Act of 2004—legislation designed to deter, prevent and punish a terrorist attack at or through one of our Nation's seaports.

I would like to thank Senator KYL for joining me in sponsoring this bill, as well as Senators BIDEN, SPECTER, HOLLINGS and ALLEN for their leadership and hard work on this critical matter.

Last year, Senator KYL and I introduced the Anti-Terrorism and Port Security Act of 2003. That bill contained a set of comprehensive measures to enhance the security of our ports. At the same time, Senators BIDEN and SPECTER were working on legislation largely focused on the criminal law aspect of Port Security.

Since that time we have joined together to craft the bill now before us. The legislation is narrow in focus, limited primarily to criminal law provisions. It is my hope that it will enjoy strong bipartisan support.

I also hope we can continue to work towards a more comprehensive approach to seaport security in the coming months.

Our nation's seaports represent the soft underbelly of our Nation's homeland security. Our adversaries, including al-Qaida and other terrorist groups, have the plans and capabilities to launch a maritime attack. In fact, just last week six al-Qaida associates were charged with planning the 2000 attack on the U.S.S. *Cole*. in Yemen that left 19 American sailors dead.

Millions of shipping containers pass through our ports each month. A single container has room for as much as 60,000 pounds of explosives—10 to 15 times the amount in the Ryder truck used to blow up the Murrah Federal Building in Oklahoma City. When you consider that a single ship can carry as many as 8,000 containers at one time, the vulnerability of our seaports is alarming.

Worse, a suitcase-sized nuclear device or radiological ''dirty bomb'' could also be placed in a container and shipped into the country. With the current monitoring system, the odds are that the container would never be inspected. And, even if the container was inspected, it would be too late.

In addition to the danger such attacks present to human lives, an attack on or through a seaport could have devastating economic consequences. Excluding trade with Mexico and Canada, America's ports handle 95 percent of goods imported and exported from the U.S. That means 800 million tons of cargo valued at approximately $600 billion. A terrorist attack would bring our port operations

to a complete standstill. To give you even a small glimpse of what such a disruption could mean, last year's West Coast labor dispute cost the U.S. economy somewhere between $1 and $2 billion per day—a total of $10 to $20 billion.

In its December 2002 report, the Hart-Rudman Terrorism Task Force described what a terrorist attack at or through one of our ports might mean in economic terms: ''If an explosive device were loaded in a container and set off in a port, it would almost automatically raise concern about the integrity of the 21,000 containers that arrive in U.S. ports each day and the many thousands more that arrive by truck and rail across U.S. land borders. A three-to-four-week closure of U.S. ports would bring the global container industry to its knees. Megaports such as Rotterdam and Singapore would have to close their gates to prevent boxes from piling up on their limited pier space. Trucks, trains, and barges would be stranded outside the terminals with no way to unload their boxes. Boxes bound for the United States would have to be unloaded from their outbound ships. Service contracts would need to be renegotiated. As the system became gridlocked, so would much of global commerce.''

This is a national issue, but one of particular concern to my home state because more than half of all goods imported into the U.S. pass through my home State of California.

Last year, 6.5 million imported containers—52 percent of the containers entering the United States—traveled through California. Six million of these came through two ports alone: the Port of Los Angeles and the Port of Long Beach.

That means that, if terrorists succeeded in putting a weapon of mass destruction into a container undetected, there is a one in two chance that this weapon would arrive and/or be detonated in Southern California.

And the problem is not just with containers. Nearly one-quarter of California's imported crude oil is offloaded in one area. A suicide attack on a tanker at an offloading facility could leave Southern California without refined fuels within a few days.

Since September 11, we have made significant steps in enhancing port security, but clearly, there is more to be done. This bill addresses some of those needed enhancements, particularly in the area of criminal law.

The Reducing Crime and Terrorism at America's Seaports Act of 2004 does the following: Clarifies existing law to make clear that those who would try to access our ports under false pretenses are committing a crime; makes it a crime to refuse to stop when the Coast Guard orders a ship to standby for inspection; sets clear criminal penalties for the use of a dangerous weapon or explosive on a passenger vessel such as a cruise ship; imposes criminal penalties for those who tamper with navigational aids, such as buoys and transponders, intentionally place destructive devices in navigable waters, or intentionally dump hazardous materials in waterways; establishes a specific crime for knowingly and willfully transporting aboard any vessel an explosive, biological agent, chemical weapon, or radioactive or nuclear materials intended to be used to commit a terrorist act; the bill also makes it a crime to knowingly and willfully transport a person aboard any vessel who intends to commit, or has committed, a terrorist act; makes it a crime to damage or destroy a vessel or a maritime facility, to commit an act of violence against any individual on a vessel or near a port facility, or to knowingly communicate false information that endangers the safety of a vessel; provides sanctions to deter criminal or civil violations related to a range of offenses, including theft of interstate or foreign shipments; amends existing law to increase penalties for noncompliance with certain reporting and record-keeping requirements for incoming ships, including information regarding the content of cargo containers and the country from which the shipments originated; and finally, the bill toughens anti-stowaway laws and laws governing bribery of port security officials.

Strengthening criminal penalties is one way we can make our Nation's ports less vulnerable. The Coast Guard, the FBI, Customs and Immigration authorities—all need the appropriate crime-fighting tools to prevent a terrorist attack. Today, we are introducing legislation to provide the crime-fighting tools that will do just that.

I ask unanimous consent that an analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

**SEC. 2. ENTRY BY FALSE PRETENSES TO ANY PORT.**

Section 2 would clarify that section 1036 of title 18 (fraudulent access to transport facilities) includes seaports and waterfronts within its scope, as well as increase the maximum term of imprisonment for a violation from 5 years to 10 years. *This provision was included in the originally introduced Biden-Specter Bill, but not in the Feinstein-Kyl Bill.*

**SEC. 3. CRIMINAL SANCTIONS FOR FAILURE TO "HEAVE TO," OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.**

Section 3 would amend the U.S. Code to make it a crime (1) for a vessel operator knowingly to fail to slow or stop a ship once ordered to do so by a federal law enforcement officer; (2) for any person on board a vessel to impede boarding or other law enforcement action authorized by federal law; or (3) for any person on board a vessel to provide false information to a federal law enforcement officer (punishable by a fine and/or imprisonment for a maximum term of 5 years). *This provision was included in both the Biden-Specter and Feinstein-Kyl Bills, but the Feinstein-Kyl Bill included a lower penalty of 1-year maximum imprisonment.*

**SEC. 4. USE OF A DANGEROUS WEAPON OR EXPLOSIVE ON A PASSENGER VESSEL.**

Section 4 would amend section 1993 of title 18 (terrorist attacks and other acts of violence against mass transportation systems) to make it a crime to willfully use a dangerous weapon (including chemical, biological, radiological or nuclear materials) or explosive, with the intent to cause death or serious bodily injury to any person on board a passenger vessel (punishable by a fine and/or imprisonment for a maximum term of 20 years; and, if death results, for a term of imprisonment up to life). *Both the Biden-Specter and Feinstein-Kyl Bills, employing different language, included a provision that would achieve this aim. The substitute incorporates the Biden-Specter approach.*

**SEC. 5. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.**

Section 5 would amend the criminal code to make it a crime to intentionally damage or tamper with any maritime navigational aid maintained by the Coast Guard or under its authority, if such act endangers the safe navigation of a ship; or knowingly place in waters any device or substance which is likely to damage a vessel or its cargo, interfere with a vessel's safe navigation, or interfere with maritime commerce (punishable by a fine and/or a term of imprisonment up to life; if death results, by a sentence of death). This section would also make it a crime to willfully and maliciously discharge a hazardous substance into U.S. waters, with the intent to cause death, serious bodily harm, or catastrophic economic injury (punishable by a fine and/or a term of imprisonment up to life; and, where an individual engages in the prohibited conduct with an intent to cause harm to the marine environment, by a fine and/or imprisonment for a maximum term of 30 years). *Both the Biden-Specter and Feinstein-Kyl Bills included this provision, but, unlike the originally-introduced bills, the substitute measure excludes the death penalty for violations of the malicious dumping provision.*

**SEC. 6. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.**

This section would make it a crime to knowingly and willfully transport aboard any vessel an explosive, biological agent, chemical weapon, or radioactive or nuclear materials, knowing that the item is intended to be used to commit a terrorist act (punishable by a fine and/or a term of imprisonment up to life; and, if death results, by a sentence of death). This section would also make it a crime to knowingly and willfully transport aboard any vessel any person who intends to commit, or is avoiding apprehension after having committed, a terrorist act (punishable by a fine and/or a term of imprisonment up to life). *This provision was included in the originally introduced Biden-Specter Bill, but not in the Feinstein-Kyl Bill.*

**SEC. 7. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.**

This section would make it a crime to (1) damage or destroy a vessel or its parts, a maritime facility, or any apparatus used to store, load or unload cargo and passengers; (2) perform an act of violence against or incapacitate any individual on a vessel or at or near a facility; or (3) knowingly communicate false information that endangers the safety of a vessel (punishable by a fine and/or imprisonment for a maximum term of 20 years; if the act involves a vessel carrying high-level radioactive waste or spent nuclear fuel, by a fine and/or a term of imprisonment up to life; and, if death results, by a sentence of death). *This provision was included in both the Biden-Specter and Feinstein-Kyl Bills. The Biden-Specter Bill also included an exception*

*for otherwise lawful activities (e.g., normal repair, salvage activities, authorized transportation of hazardous materials) and a bar to federal prosecution if the conduct is de minimus (e.g., blown-out tire) or occurred during legitimate labor activity. The substitute measure incorporates these elements of the Biden-Specter Bill.*

**SEC. 8. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.**

Section 8 would expand the scope of section 659 of title 18 (theft of interstate or foreign shipments) to include theft of goods from additional transportation facilities or instruments, including trailers, cargo containers, and warehouses; and would increase the maximum term of imprisonment for low-level thefts from 1 year to 3 years. *This provision was included in the originally introduced Biden-Specter Bill, but not in the Feinstein-Kyl Bill.*

**SEC. 9. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.**

Section 509 would amend section 1436 of title 19 to increase the penalties for noncompliance with certain manifest reporting and record-keeping requirements, including information regarding the content of cargo containers and the country from which the shipments originated. *This provision was included in both the Biden-Specter and Feinstein-Kyl Bills, but the Biden-Specter Bill included lesser penalties. The substitute measure reflects the penalty structure set out in the Biden-Specter Bill.*

**SEC. 10. STOWAWAYS ON VESSELS OR AIRCRAFT.**

This section would increase the maximum penalty for a violation of section 2199 (stowaways on vessels or aircraft) of title 18 from 1 year to 5 years. If the act is committed with the intent to commit serious bodily injury and serious bodily injury does in fact occur, it would be punishable by a fine and/or a term of imprisonment up to 20 years. If the act is committed with the intent to cause death, it would be punishable by a fine and/or a term of imprisonment up to life. *This provision was not included in either the Biden-Specter or Feinstein-Kyl Bills, but is included in the substitute measure on Senator Hatch's request.*

**SEC. 11. BRIBERY AFFECTING PORT SECURITY.**

This section would make it a crime to knowingly bribe a public official, with the intent to commit international or domestic terrorism; or for anyone to receive a bribe in return for being influenced in his or her public duties, knowing that such influence will be used to commit, or plan to commit, an act of terrorism (punishable by a term of imprisonment up to 15 years). *This provision was not included in either the Biden-Specter or Feinstein-Kyl Bills, but is included in the substitute measure on Senator Hatch's request.*

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By Mr. DODD:

S. 2654. A bill to provide for Kindergarten Plus programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce legislation with my colleagues Senator KENNEDY and Senator BINGAMAN to jump-start school success for low-income children. Today we are introducing the Sandy Feldman Kindergarten Plus Act of 2004.

Sandy Feldman, the President of the American Federation of Teachers, stepped down today after decades of public service. If there is one goal to which Sandy has dedicated herself over the years, it is the education of our Nation's children.

Sandy is the product of New York City's public schools. She knows what great promise public education holds for our Nation. But, she also knows that all too often, we don't give our schools the resources they need to be able to live up to that promise.

While I've worked with Sandy for many years, I've been particularly privileged to work with her in the area of early childhood education. It was Sandy who developed the concept for this Kindergarten Plus legislation and Sandy who spent countless hours developing the details to ensure that the initiative would work in a diverse array of communities.

Although Sandy is leaving the AFT, I know she will continue fighting for our Nation's children, and for mothers, fathers, and teachers across this Nation. I look forward to her continued counsel and advice on education issues and other issues of importance to families.

The Kindergarten Plus legislation we are introducing today will offer competitive grants to States to provide children below 185 percent of the poverty line with a transitional kindergarten during the summer before kindergarten formally begins and a transitional first grade during the summer between kindergarten and first grade.

Why an extra four months of kindergarten for these children? The answer is simple. Because too many low income children today enter kindergarten unprepared for the year ahead, far behind their wealthier peers in both academic and social skills.

According to a recent survey, 46 percent of kindergarten teachers report that at least half of their class or more has specific problems with entry into kindergarten. Yet, kindergarten is critical in preparing children to succeed in elementary school, especially for children at-risk of academic failure.

There is no panacea, no magic wand to erase the deficiencies that too many low income children have in entering kindergarten on par with their more economically well-off peers. It is simply not possible in a two month period before kindergarten begins or in a nine-month half day pre-kindergarten program to wipe away the advantages that wealthier children have had in their first five years of life that result in the skill set with which they enter kindergarten.

We can, however, do a better job of preparing less fortunate children for school. We can expose them to classroom practices and routines and the expectations for kindergarten behavior and protocol. We can introduce them to concepts and help them understand that classrooms have rules. We can expose them to literature, story time or circle time. We can help them understand that books are made up of printed words and that words are made up of individual letters. We can ask them questions to help develop their critical thinking skills, like what do you think will happen next in the story? Why? We can offer them ''show and tell'' to develop their oral language skills and ability to speak out loud in sequential sentences.

Many children enter kindergarten with these skills. But, many do not. During the school year before a child is eligible to enter kindergarten, about 75 percent of children in families with more than $75,000 in income participate in some type of center-based program, compared to 51 percent of children in families with incomes between $10,000 and $20,000.

The numbers are much more stark when looking at the children of mothers who dropped out of high school. Recent data shows that about 74 percent of 3, 4, and 5 year old children whose mothers graduated from college were enrolled in a center-based program compared to only 42 percent of 3, 4, and 5 year old children whose mothers did not complete high school.

How does this translate to children? Some children know how to follow directions and some children do not. Some children transition well between activities as part of a daily routine, some children do not. About 85 percent of high income children, compared to 39 percent of low income children, can recognize letters of the alphabet upon arrival in kindergarten. About half the children of college graduates can identify the beginning sounds of words, but only 9 percent of the children whose parents didn't complete high school can recognize the beginning sounds of words.

Of equal concern, kindergarten teachers report that about 80 percent of children whose mothers graduated from college persist at a task and are eager to learn whereas only about 60 percent of the children whose mothers have not graduated from high school persist at a task and are eager to learn.

What we know from the research is that children can enter kindergarten better prepared to learn. We may not be able to close the gap between low income children and their wealthier peers, but we can certainly narrow it considerably.

Our bill would provide states with resources to offer a transitional kindergarten during the summer before kindergarten begins. This would enable local school districts to offer a jumpstart on kindergarten with smaller class sizes during the summer. Before all kindergarten eligible children arrive, K+ children would have an introduction to kindergarten. The same opportunity would be part of the program for the summer between kindergarten and first grade.

The introductory period would enable school districts to target low income children who may never before have participated in a center-based program such as Head Start or state pre-k, or nursery school. They could target low income English language learners or low income children who participated in Head Start or state pre-k who could continue their progress during the summer.

About 65 percent of mothers with children under age 6 are in the workforce today. Every day, about 13 million preschoolers, including 6 million infants and toddlers, are in some type of child care arrangement. What we are trying to do with this bill is to pull out low income children who would be eligible to enter kindergarten in the fall and offer them a summer enrichment period as an introduction to kindergarten. It might be that a local Head Start or community-based organization's preschool would continue to operate their programs during the summer. However, these are local decisions made by school districts that apply for and receive K+ funding.

It should be clear that the K+ program would operate as a supplement to existing programs, most of which follow the school calendar. In fact, children who participate in a high quality early learning program during the summer before kindergarten are not eligible to participate in K+ to avoid duplication of efforts and scarce resources.

In the National Academy of Sciences report, ''From Neurons to Neighborhoods: the Science of Early Childhood Development'', numerous recommendations are made to improve the foundation with which children enter school. The report points out that with so many parents working today, the burden of poor quality and limited choice in child care rests most heavily on low income working families whose financial resources are too high to qualify for subsidies or Head Start yet too low to afford market prices for quality child care.

It is the children of the working poor who are very much at risk of beginning kindergarten behind their wealthier and poorer peers. Yet, it is these children in addition to poor children who are most likely to enter kindergarten behind their wealthier peers, unprepared for the year ahead.

Supporting the K+ program is the American Federation of Teachers, AFT, the Parent-Teacher Association, PTA, the Council of Great City Schools, the Society for Research in Child Development, SRCD, the Children's Defense Fund, and Easter Seals.

We urge you to join us as cosponsors of this legislation and help give low income children a jump-start on school success.

Mr. President, I ask unanimous consent that a brief summary of the bill and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2654

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Kindergarten Plus Act of 2004''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Kindergarten has proven to be a beneficial experience for children, putting children on a path that positively influences their learning and development in later school years.

(2) Kindergarten and the years leading up to kindergarten are critical in preparing children to succeed in elementary school, especially if the children are from low-income families or have other risks of difficulty in school.

(3) Disadvantaged children, on average, lag behind other children in literacy, numeracy, and social skills, even before formal schooling begins.

(4) For many children entering kindergarten, the achievement gap between children from low-income households compared to children from high-income households is already evident.

(5) 85 percent of beginning kindergartners in the highest socioeconomic group, compared to 39 percent in the lowest socioeconomic group, can recognize letters of the alphabet. Similarly, 98 percent of beginning kindergartners in the highest socioeconomic group, compared to 84 percent of their peers in the lowest socioeconomic group, can recognize numbers and shapes.

(6) Once disadvantaged children are in school, they learn at the same rate as other children. Therefore, providing disadvantaged children with additional time in kindergarten, in the summer before such children ordinarily enter kindergarten and in the summer before first grade, will help schools close achievement gaps and accelerate the academic progress of their disadvantaged students.

(7) High quality, extended-year kindergarten that provides children with enriched learning experiences is an important factor in helping to close achievement gaps, rather than having the gaps continue to widen.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) ELIGIBLE STUDENT.—The term ''eligible student'' means a child who—

(A) is a 5-year old, or will be eligible to attend kindergarten at the beginning of the next school year;

(B) comes from a family with an income at or below 185 percent of the poverty line; and

(C) is not already served by a high-quality program in the summer before or the summer after the child enters kindergarten.

(2) KINDERGARTEN PLUS.—The term ''Kindergarten Plus'' means a voluntary full day of kindergarten, during the summer before and during the summer after, the traditional kindergarten school year (as determined by the State).

(3) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(4) PARENT.—The term ''parent'' includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare).

(5) PARENTAL INVOLVEMENT.—The term ''parental involvement'' means the participation of parents in regular, 2-way, and meaningful communication with school personnel involving student academic learning and other school activities, including ensuring that parents—

(A) play an integral role in assisting their child's learning;

(B) are encouraged to be actively involved in their child's education at school; and

(C) are full partners in their child's education and are included, as appropriate, in decisionmaking and on advisory committees to assist in the education of their child.

(6) 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 (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(7) ELIGIBLE PROVIDER.—The term ''eligible provider'' means a local educational agency or a private not-for-profit agency or organization, with a demonstrated record in the delivery of early childhood education services to preschool-age children, that provides high-quality early learning and development experiences that—

(A) are aligned with the expectations for what children should know and be able to do when the children enter kindergarten and grade 1, as established by the State educational agency; or

(B) in the case of an entity that is not a local educational agency and that serves children who have not entered kindergarten, meet the performance standards and performance measures described in subparagraphs (A) and (B) of subsection (a)(1), and subsection (b), of section 641A of the Head Start Act (42 U.S.C. 9836a) or the prekindergarten standards of the State where the entity is located.

(8) SCHOOL READINESS.—The term ''school readiness'' means the cognitive, social, emotional, approaches to learning, and physical development of a child, including early literacy and early mathematics skills, that prepares the child to learn and succeed in elementary school.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(10) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

**SEC. 4. GRANTS TO STATE EDUCATIONAL AGENCIES AUTHORIZED.**

(a) IN GENERAL.—The Secretary is authorized to award grants, on a competitive basis, to State educational agencies to enable the State educational agencies to provide Kindergarten Plus within the State.

(b) SUFFICIENT SIZE.—To the extent possible, the Secretary shall ensure that each grant awarded under this section is of sufficient size to enable the State educational agency receiving the grant to provide Kindergarten Plus to all eligible students served by the local educational agencies within the State with the highest concentrations of eligible students.

(c) MINIMUM AMOUNT.—The Secretary shall not award a grant to a State educational agency under this section in an amount that is less than $500,000.

(d) STATE USE OF FUNDS.—A State educational agency shall use—

(1) not more than 3 percent of the grant funds received under this Act for administration of the Kindergarten Plus programs supported under this Act;

(2) not more than 5 percent of the grant funds received under this Act to develop professional development activities and curricula for teachers and staff of Kindergarten Plus programs in order to develop a continuum of developmentally appropriate curricula and practices for preschool, kindergarten, and grade 1 that ensures—

(A) an effective transition to kindergarten and to grade 1 for students; and

(B) appropriate expectations for the students' learning and development as the students make the transition to kindergarten and to grade 1; and

(3) the remainder of the grant funds to award subgrants to local educational agencies.

(e) PRIORITY.—In awarding grants under this Act the Secretary shall give priority to State educational agencies that—

(1) on their own or in combination with other government agencies, provide full day kindergarten to all kindergarten-age children who are from families with incomes below 185 percent of the poverty line within the State; or

(2) demonstrate progress toward providing full day kindergarten to all kindergarten-age children who are from families with incomes below 185 percent of the poverty line within the State by submitting a plan that shows how the State educational agency will, at a minimum, double the number of such children that were served by a full day kindergarten program in the school year preceding the school year for which assistance is first sought.

**SEC. 5. SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES.**

(a) IN GENERAL.—Each State educational agency that receives a grant under this Act—

(1) shall reserve an amount sufficient to continue to fund multiyear subgrants awarded under this section; and

(2) shall award subgrants to local educational agencies within the State to enable the local educational agencies to pay the Federal share of the costs of carrying out Kindergarten Plus programs for eligible students.

(b) PRIORITY.—In awarding subgrants under this section the State educational agency shall give priority to local educational agencies—

(1) serving the greatest number or percentage of kindergarten-age children who are from families with incomes below 185 percent of the poverty line, based on data from the most recent school year; and

(2) that propose to significantly reduce the class size and student-to-teacher ratio of the classes in their Kindergarten Plus programs below the average class size and student-to-teacher ratios of kindergarten classes served by the local educational agencies.

(c) FEDERAL SHARE.—The Federal share of the costs of carrying out a Kindergarten Plus program shall be—

(1) 100 percent for the first, second, and third years of the program;

(2) 85 percent for the fourth year of the program; and

(3) 75 percent for the fifth year of the program.

(d) IN-KIND CONTRIBUTIONS.—The non-Federal share of the costs of carrying out a Kindergarten Plus program may be in the form of in-kind contributions.

**SEC. 6. STATE APPLICATION.**

(a) IN GENERAL.—In order to receive a grant under this Act, a State educational agency shall submit an application to the Secretary at such time and containing such information as the Secretary determines appropriate.

(b) CONSULTATION.—The application shall be developed by the State educational agency in consultation with representatives of early childhood education programs, early childhood education teachers, principals, pupil services personnel, administrators, paraprofessionals, other school staff, early childhood education providers (including Head Start agencies, State prekindergarten program staff, and child care providers), teacher organizations, parents, and parent organizations.

(c) CONTENTS.—At a minimum, the application shall include—

(1) a description of developmentally appropriate teaching practices and curricula for children that will be put in place to be used by local educational agencies and eligible providers offering Kindergarten Plus programs to carry out this Act;

(2) a general description of the nature of the Kindergarten Plus programs to be conducted with funds received under this Act, including—

(A) the number of hours each day and the number of days each week that children in each Kindergarten Plus program will attend the program; and

(B) if a Kindergarten Plus program meets for less than 9 hours a day, how the needs of full-time working families will be addressed;

(3) goals and objectives to ensure that high-quality Kindergarten Plus programs are provided;

(4) an assurance that students enrolled in Kindergarten Plus programs funded under this Act will receive additional comprehensive services (such as nutritional services, health care, and mental health care), as needed; and

(5) a description of how—

(A) the State educational agency will coordinate and integrate services provided under this Act with other educational programs, such as Even Start, Head Start, Reading First, Early Reading First, State-funded preschool programs, preschool programs funded under section 619 or other provisions of part B of the Individuals with Disabilities Education Act (20 U.S.C. 1419, 1411 et seq.), and kindergarten programs;

(B) the State will provide professional development for teachers and staff of local educational agencies and eligible providers that receive subgrants under this Act regarding how to address the school readiness needs of children (including early literacy, early mathematics, and positive behavior) before the children enter kindergarten, throughout the school year, and into the summer after kindergarten;

(C) the State will assist Kindergarten Plus programs to provide exemplary parent education and parental involvement activities such as training and materials to assist parents in being their children's first teachers at home or home visiting;

(D) the State will conduct outreach to parents with eligible students, including parents whose native language is not English, parents of children with disabilities, and parents of migratory children; and

(E) the State educational agency will ensure that each Kindergarten Plus program uses developmentally appropriate practices, including practices and materials that are culturally and linguistically appropriate for the population of children being served in the program.

**SEC. 7. LOCAL APPLICATION.**

(a) IN GENERAL.—In order to receive a subgrant under this Act, a local educational agency shall submit an application to the State educational agency at such time and containing such information as the State educational agency determines appropriate.

(b) CONSULTATION.—The application shall be developed by the local educational agency in consultation with early childhood education teachers, principals, pupil services personnel, administrators, paraprofessionals, other school staff, early childhood education providers (including Head Start agencies, State prekindergarten program staff, and child care providers), teacher organizations, parents, and parent organizations.

(c) CONTENTS.—At a minimum, the application shall include a description of—

(1) the standards, research-based and developmentally appropriate curricula, teaching practices, and ongoing assessments for the purposes of improving instruction and services, to be used by the local educational agency that—

(A) are aligned with the State expectations for what children should know and be able to do when the children enter kindergarten and grade 1, as set by the State educational agency; and

(B) include—

(i) language skills, including an expanded use of vocabulary;

(ii) interest in and appreciation of books, reading, writing alone or with others, and phonological and phonemic awareness;

(iii) prematheamtics knowledge and skills, including aspects of classification, seriation, number sense, spatial relations, and time;

(iv) other cognitive abilities related to academic achievement;

(v) social and emotional development, including self-regulation skills;

(vi) physical development, including gross and fine motor development skills;

(vii) in the case of limited English proficiency, progress toward the acquisition of the English language; and

(viii) approaches to learning;

(2) how the local educational agency will ensure that the Kindergarten Plus program uses curricula and practices that—

(A) are developmentally, culturally, and linguistically appropriate for the population of children served in the program; and

(B) are aligned with the State learning standards and expectations for children in kindergarten and grade 1;

(3) how the Kindergarten Plus program will improve the school readiness of children served by the local educational agency under this Act, especially in mathematics and reading;

(4) how the Kindergarten Plus program will provide continuity of services and learning for children who were previously served by a different program;

(5) how the local educational agency will ensure that the Kindergarten Plus program has appropriate services and accommodations in place to serve children with disabilities and children who are limited English proficient;

(6) how the local educational agency will perform a needs assessment to avoid duplication with other programs within the geographic area served by the local educational agency;

(7) how the local educational agency will—

(A) transition Kindergarten Plus participants into local elementary school programs and services;

(B) ensure the development and use of systematic, coordinated records on the educational development of each child participating in the Kindergarten Plus program through periodic meetings and communications among—

(i) Kindergarten Plus program teachers;

(ii) elementary school staff; and

(iii) local early childhood education program providers, including Head Start agencies, State prekindergarten program staff, and center-based and family child care providers;

(C) provide parent and child orientation sessions conducted by teachers and staff; and

(D) provide a qualified staff person to be in charge of coordinating the transition services;

(8) how the local educational agency will provide instructional and environmental accommodations in the Kindergarten Plus program for children who are limited English proficient, children with disabilities, migratory children, neglected or delinquent youth, Indian children served under part A of title VII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7401 et seq.), homeless children, and immigrant children;

(9) how the local educational agency will conduct outreach to parents of eligible students, including parents whose native language is not English, parents of children with disabilities, and parents of migratory children, which may include—

(A) activities to provide parents early exposure to the school environment, including meetings with teachers and staff;

(B) activities to better engage and inform parents on the benefits of Kindergarten Plus and other programs; and

(C) other efforts to ensure that parents have a level of comfort with the Kindergarten Plus program and the school environment;

(10) how the local educational agency will assist the Kindergarten Plus program to provide exemplary parent education and parental involvement activities such as training and materials to assist parents in being their children's first teachers at home or home visiting; and

(11) how the local educational agency will work with local center-based and family child care providers and Head Start agencies to ensure—

(A) the nonduplication of programs and services; and

(B) that the needs of working families are met through child care provided before and after the Kindergarten Plus program.

**SEC. 8. LOCAL REQUIREMENTS AND PROVISIONS.**

(a) LOCAL USES OF FUNDS.—A local educational agency that receives a subgrant under this Act shall use the subgrant funds for the following:

(1) The operational and program costs associated with the Kindergarten Plus program as described in the application to the State educational agency.

(2) Personnel services, including teachers, paraprofessionals, and other staff as needed.

(3) Additional services, as needed, including snacks and meals, mental health care, health care, linguistic assistance, special education and related services, and transportation services associated with the needs of the children in the program.

(4) Transition services to ensure children make a smooth transition into first grade and proper communication is made with the elementary school on the educational development of each child.

(5) Outreach and recruitment activities, including community forums and public service announcements in local media in various languages if necessary to ensure that all individuals in the community are aware of the availability of such program.

(6) Parental involvement programs, including materials and resources to help parents become more involved in their child's learning at home.

(7) Extended day services for the eligible students of working families, including working with existing programs in the community to coordinate services if possible.

(8) Child care services, provided through coordination with local center-based child care and family child care providers, and Head Start agencies, before and after the Kindergarten Plus program for the children participating in the program, to accommodate the schedules of working families.

(9) Enrichment activities, such as—

(A) art, music, and other creative arts;

(B) outings and field trips; and

(C) other experiences that support children's curiosity, motivation to learn, knowledge, and skills.

(b) ELIGIBLE PROVIDER GRANTS AND APPLICATIONS.—The local educational agency may use subgrant funds received under this Act to award a grant to an eligible provider to enable the eligible provider to carry out a Kindergarten Plus program for the local educational agency. Each eligible provider desiring a grant under this subsection shall submit an application to the local educational agency that contains the descriptions set forth in section 7 as applied to the eligible provider.

(c) CONTINUITY.—In carrying out a Kindergarten Plus program under this Act, a local educational agency is encouraged to explore ways to develop continuity in the education of children, for instance by keeping, if possible, the same teachers and personnel from the summer before kindergarten, through the kindergarten year, and during the summer after kindergarten.

(d) COORDINATION.—In carrying out a Kindergarten Plus program under this Act, a local educational agency shall coordinate with existing programs in the community to provide extended care and comprehensive services for children and their families in need of such care or services.

**SEC. 9. TEACHER AND PERSONNEL QUALITY STANDARDS.**

To be eligible for a subgrant under this Act, each local educational agency shall ensure that—

(1) each Kindergarten Plus classroom has—

(A) a highly qualified teacher, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); or

(B) if an eligible provider who is not a local educational agency is providing the Kindergarten Plus program in accordance with section 8(b), a teacher that, at a minimum, has a bachelor's degree in early childhood education or a related field and experience in teaching children of this age;

(2) a qualified paraprofessional that meets the requirements for paraprofessionals under section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319), is in each Kindergarten Plus classroom;

(3) Kindergarten Plus teachers and paraprofessionals are compensated on a salary scale comparable to kindergarten through grade 3 teachers and paraprofessionals in public schools served by the local educational agency; and

(4) Kindergarten Plus class sizes do not exceed the class size and ratio parameters set at the State or local level for the traditional kindergarten program.

**SEC. 10. DIRECT GRANTS TO LOCAL EDUCATIONAL AGENCIES.**

(a) GRANTS AUTHORIZED.—If a State educational agency does not apply for a grant under this Act or does not have an application approved under section 6, then the Secretary is authorized to award a grant to a local educational agency within the State to enable the local educational agency to pay the Federal share of the costs of carrying out a Kindergarten Plus program.

(b) ELIGIBILITY.—A local educational agency shall be eligible to receive a grant under this section if the local educational agency operates a full day kindergarten program that, at a minimum, is targeted to kindergarten-age children who are from families with incomes below 185 percent of the poverty line within the State.

(c) APPLICATION.—In order to receive a grant under subsection (a), a local educational agency shall submit to the Secretary an application that—

(1) contains the descriptions set forth in section 7; and

(2) includes an assurance that the Kindergarten Plus program funded under such grant will serve eligible students.

(d) APPLICABILITY.—Sections 8 and 9 shall apply to a local educational agency receiving a grant under this section in the same manner as the sections apply to a local educational agency receiving a subgrant under section 5(a).

**SEC. 11. EVALUATION, COLLECTION, AND DISSEMINATION OF INFORMATION.**

(a) IN GENERAL.—Each State educational agency that receives a grant under this Act, in cooperation with the local educational agencies in the State that receive a subgrant under this Act, shall create an evaluation mechanism to determine the effectiveness of the Kindergarten Plus programs in the State, taking into account—

(1) information from the local needs assessment, conducted in accordance with section 7(c)(6), including—

(A) the number of eligible students in the geographic area;

(B) the number of children served by Kindergarten Plus programs, disaggregated by family income, race, ethnicity, native language, and prior enrollment in an early childhood education program; and

(C) the number of children with disabilities served by Kindergarten Plus programs;

(2) the recruitment of teachers and staff for Kindergarten Plus programs, and the retention of such personnel in the programs for more than 1 year;

(3) the provision of services for children and families served by Kindergarten Plus programs, including parent education, home visits, and comprehensive services for families who need such services;

(4) the opportunities for professional development for teachers and staff; and

(5) the curricula used in Kindergarten Plus programs.

(b) COMPARISON.—The evaluation process may include comparison groups of similar children who do not participate in a Kindergarten Plus program.

(c) INFORMATION COLLECTION AND REPORTING.—The information necessary for the evaluation shall be collected yearly by the State and reported every 2 years by the State to the Secretary.

(d) ANALYSIS OF EFFECTIVENESS.—The Secretary shall conduct an analysis of the overall effectiveness of the programs assisted under this Act and make the analysis available to Congress, and the public, biannually.

**SEC. 12. SUPPLEMENT NOT SUPPLANT.**

Funds made available under this Act shall be used to supplement, not supplant, other Federal, State, or local funds available to carry out activities under this Act.

**SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

For the purpose of carrying out this Act, there are authorized to be appropriated $1,500,000,000 for fiscal year 2005 and such sums as may be necessary for each of the fiscal years 2006 through 2010.

SUMMARY OF THE SANDY FELDMAN KINDERGARTEN PLUS (K+) ACT OF 2004

Purpose: To provide disadvantaged children with additional time in kindergarten during the summer before and summer after the traditional kindergarten school year, and to help ensure that more children enter school ready to succeed.

Background: Kindergarten is critical in preparing children to succeed in elementary school. Many low-income children begin kindergarten lagging behind other children in literacy, math, and social skills, even before formal schooling begins.

85 percent of high-income children, compared to 39 percent of low-income children, can recognize letters of the alphabet upon arrival in kindergarten. Half the children of parents who have graduated from college can identify the beginning sounds of words, but only 9 percent of the children whose parents have not completed high school recognize the beginning sounds of words. Kindergarten teachers report that about 80 percent of the children whose mothers graduated from college persist at a task and are eager to learn whereas only about 60 percent of the children whose mothers have not graduated from high school persist at a task and are eager to learn.

Brief Bill Summary: K+ creates a competitive grant program for states to provide

local education agencies (LEAs) with funds to provide kindergarten to disadvantaged children the summer before and the summer after the traditional kindergarten school year. In awarding grants to LEAs, States shall give priority to educational agencies serving the greatest number or percentage of kindergarten-aged children who are from families with incomes below 185 percent of the poverty line and to LEAs that will significantly reduce kindergarten class sizes for their summer programs.

To be eligible for a grant, States must have in place: developmentally appropriate practices and curriculum; goals and objectives for a high quality summer program; a description of how the State will provide professional development for K+ teachers and staff; a description of how the State will assist K+ programs to reach out to, and work with, parents; and, a means to collect evaluative data to determine the effectiveness of K+ programs across their state.

To be eligible for a subgrant, LEAs must have in place: readiness standards and developmentally appropriate curricula; a plan for using classroom practices and strategies proven to be effective; a plan for notifying parents and the community regarding the availability of K+; a plan for parental involvement in any K+ program; and, a plan to demonstrate how they will accommodate the needs of working parents with ''before and after'' child care services.

Funds to LEAs may be used to: pay for operational and programmatic costs, including personnel and transportation; transition services to first grade; outreach and recruitment; parental involvement programs; and child care services. Each LEA shall ensure a highly qualified teacher and qualified paraprofessional or for non-school based programs a teacher that at a minimum has a Bachelor's degree in early childhood education.

The bill authorizes $1.5 billion for fiscal year 2005, and such sums as may be necessary for years 2006–2010; the minimum State grant is $500,000.

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By Mr. SMITH:

S. 2655. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the production of water and energy efficient appliances; to the Committee on Finance.

Mr. SMITH. Mr. President, water is a precious resource that we must begin to manage as efficiently as possible. In several parts of the country, development is constrained by the lack of good quality water and water infrastructure. Having dealt with the water crisis in the Klamath Basin in 2001, when 1,200 farmers and ranchers had their irrigation water cut off, I can tell you firsthand that the conflicts between competing human and environmental needs are real and are growing.

Benjamin Franklin wrote in Poor Richard's Almanack in 1746, ''When the well is dry, we know the worth of water.'' Well, in parts of the West, the well is quickly running dry. As the Los Angeles Times reported on June 18, 2004, the Western United States may be facing the biggest drought in 500 years. The current effects in the Colorado River Basin are considerably worse than those experienced during the Dust Bowl years of the 1930s. The 10-year drought in the Colorado River Basin has produced the lowest flows on record, straining an important water supply resource for millions of people.

One immediate way to stretch available water supplies, as well as energy resources, is to provide incentives for water and energy efficient appliances. That is why I am introducing a bill to provide tax credits for the manufacture of highly efficient residential clothes washers, dishwashers and refrigerators. The bill builds on the tax credits for energy-efficient appliances pending before the Senate, which—if enacted—will expire in 2007. Under this bill, for the first time, water efficiency is included in the eligibility criteria for the tax credits, and the energy efficiency criteria are higher. This bill provides graduated credits to manufacturers. The more efficient the dishwasher, clothes washer or refrigerator, the higher the credit.

The daily per capita water use around the world varies significantly. The U.N. Population Fund cites that in the United States, we use an estimated 152 gallons per day per person, while in the United Kingdom they use 388 gallons. Africans use 12 gallons a day.

According to the Rocky Mountain Institute, 47 percent of all water supplied to communities in the United States by public and private utilities is for residential water use. Of that, clothes washers account for approximately 22 percent of residential use, while dishwashers account for about 3 percent.

I firmly believe that we can use technology to improve our environmental stewardship. Water efficiency can extend our finite water supplies, and also reduce the amount of wastewater that communities must treat.

High efficiency clothes washers use 20 to 30 gallons per load, compared to the 40 to 45 gallons top-loading machines use. The average annual household water savings is estimated to be 3,500 to 6,000 gallons. Energy savings estimates range from 68 to 70 percent compared to older, standard clothes washers. High efficiency dishwashers use 39 percent less energy to heat the water and 39 percent less water than standard models. Refrigerators must use at least 30 percent less energy than comparably sized models to receive a credit under this bill.

While plumbing fixtures such as toilets, showerheads and faucets must meet U.S. water efficiency standards, water-using appliances are not governed by any water-efficiency standards. We can, however, provide an incentive to lower the cost of these water and energy saving appliances, which are generally more costly to manufacture than standard models.

Mr. President, I would urge my colleagues to join me in cosponsoring this important bill to provide incentives for water and energy efficient residential appliances. 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. 2655

*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 ''Water and Energy Efficient Appliances Act of 2004''.

**SEC. 2. CREDIT FOR WATER AND ENERGY EFFICIENT APPLIANCES.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following new section:

**''SEC. 45G. WATER AND ENERGY EFFICIENT APPLIANCE CREDIT.**

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—For purposes of section 38, the water and energy efficient appliance credit determined under this section for the taxable year is an amount equal to the sum of the amounts determined under paragraph (2) for qualified water and energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

''(2) AMOUNT.—The amount determined under this paragraph for any category described in subsection (b)(2)(B) shall be the product of the applicable amount for appliances in the category and the eligible production for the category.

''(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

''(1) APPLICABLE AMOUNT.—The applicable amount is—

''(A) $25, in the case of a dishwasher manufactured with an EF of at least 0.65,

''(B) $50, in the case of a dishwasher manufactured with an EF of at least 0.69,

''(C) $75, in the case of a clothes washer which is manufactured with an MEF of at least a 1.80 and a WF of no more than 7.5,

''(D) $100, in the case of a refrigerator which consumes at least 30 percent less kilowatt hours per year than the energy conservation standards for refrigerators promulgated by the Department of Energy and effective on July 1, 2001, and

''(E) $150, in the case of a clothes washer which is manufactured with an MEF of at least a 1.80 and a WF of no more than 5.5.

''(2) ELIGIBLE PRODUCTION.—

''(A) IN GENERAL.—The eligible production of each category of qualified water and energy efficient appliances is the excess of—

''(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

''(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 2002, 2003, and 2004.

''(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—

''(i) dishwashers described in paragraph (1)(A),

''(ii) dishwashers described in paragraph (1)(B),

''(iii) clothes washers described in paragraph (1)(C),

''(iv) clothes washers described in paragraph (1)(E), and

''(v) refrigerators described in paragraph (1)(D).

''(c) LIMITATION ON MAXIMUM CREDIT.—

''(1) IN GENERAL.—The amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall not exceed $65,000,000, of which not more than $15,000,000 may be allowed with respect to the credit determined by using the applicable amount under subsections (b)(1)(A) and (b)(1)(B).

''(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable

year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

''(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

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

''(1) QUALIFIED WATER AND ENERGY EFFICIENT APPLIANCE.—The term 'qualified water and energy efficient appliance' means—

''(A) a dishwasher described in subparagraph (A) or (B) or subsection (b)(1),

''(B) a clothes washer described in subparagraph (C) or (E) of subsection (b)(1), or

''(C) a refrigerator described in subparagraph (D) of subsection (b)(1).

''(2) DISHWASHER.—The term 'dishwasher' means a standard residential dishwasher with a capacity of 8 or more place settings plus 6 serving pieces.

''(3) CLOTHES WASHER.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

''(4) REFRIGERATOR.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

''(5) EF.—The term 'EF' means Energy Factor (as determined by the Secretary of Energy).

''(6) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

''(7) WF.—The term 'WF' means Water Factor (as determined by the Secretary of Energy).

''(e) SPECIAL RULES.—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

''(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

''(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

''(g) TERMINATION.—This section shall not apply to water and energy efficient appliances produced after December 31, 2010.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of such Code (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the water and energy efficient appliance credit determined under section 45G(a).''.

(c) LIMITATION ON CARRYBACK.—Section 39(d) of such Code (relating to transition rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF WATER AND ENERGY EFFICIENT APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the water and energy efficient appliance credit determined under section 45G may be carried to a taxable year ending before January 1, 2008.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 45G. Water and energy efficient appliance credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2007, in taxable years ending after such date.

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By Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida):

S. 2656. A bill to establish a National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon; to the Committee on Energy and Natural Resources.

Mr. GRAHAM. Mr. President, in 2013, our nation will celebrate the 500th anniversary of Ponce de Leon's landing on the east coast of Florida. I am pleased to introduce a bill today that establishes a commission to determine how we can best commemorate his discovery of Florida. For a country as young as ours, a Quincentennial is a rare milestone worthy of tribute.

Juan Ponce de Leon landed on the coast of Florida, south of the present-day St. Augustine, in April of 1513. During the Easter holiday, he explored our coasts, visiting the Florida Keys and the west coast of Florida. The first European explorer to step foot on North American soil, Ponce de Leon opened Florida and the mainland of the Americas to the rest of the world. Florida owes its heritage to Ponce de Leon. Even the name Florida dates back to Ponce de Leon's discovery. When he saw the lush terrain, Ponce de Leon named the area the ''land of flowers'' or ''Florida'' in Spanish.

While there is no doubt that Ponce de Leon is a key part of Florida's history, his landing in Florida is ingrained in our entire nation's early history. Children read in their history books about the myths surrounding Ponce de Leon's voyages. His quest for the fountain of youth has become a myth symbolic of the age of exploration.

Other Europeans were encouraged to make the dangerous journey across the Atlantic toward the Americas, persuaded by the stories of Ponce de Leon's explorations of the new lands of Florida. Ultimately, his discovery opened the path for exploration and colonization of the Americas.

I have drafted this bill with the assistance of a notable scholar accomplished in the field of early Florida history—Dr. Samuel Proctor, Distinguished Service Professor Emeritus of History at the University of Florida. I would like to thank Dr. Proctor for all of his efforts in drafting this bill.

Funding authorized by this legislation would support the activities of this commission and would allow for educational activities, ceremonies, and celebrations. Fittingly, the principal office for this operation would be located in St. Augustine, FL.

With the establishment of this commission, my hope is to not only commemorate Ponce de Leon's arrival in Florida but to enhance the American public's knowledge about the impact of Florida's discovery on the history of the United States. I hope that my colleagues will recognize the importance of commemorating this historic event.

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. 2656

*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 ''Ponce de Leon Discovery of Florida Quincentennial Commission Act''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the Quincentennial of the founding of Florida by Ponce de Leon occurs in 2013, 500 years after Ponce de Leon landed on its shores and explored the Keys and the west coast of Florida;

(2) evidence supports the theory that Ponce de Leon was the first European to land on the shores of Florida;

(3) Florida means ''the land of flowers'' and the State owes its name to Ponce de Leon;

(4) Ponce de Leon's quest for the ''fountain of youth'' has become an established legend which has drawn fame and recognition to Florida and the United States;

(5) the discovery of Florida by Ponce de Leon, the myth of the ''fountain of youth'', and the subsequent colonization of Florida encouraged other European countries to explore the New World and to establish settlements in the territory that is currently the United States;

(6) Florida was colonized under 5 flags; and

(7) commemoration of the arrival in Florida of Ponce de Leon and the beginning of the colonization of the Americas would—

(A) enhance public understanding of the impact of the discovery of Florida on the history of the United States; and

(B) provide lessons about the importance of exploration and discovery.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) COMMISSION.—The term ''Commission'' means the National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon established under section 4(a).

(2) QUINCENTENNIAL.—The term ''Quincentennial'' means the 500th anniversary of the discovery of Florida by Ponce de Leon.

**SEC. 4. ESTABLISHMENT OF COMMISSION.**

(a) ESTABLISHMENT.—There is established a commission to be known as the ''National Commission on the Quincentennial of the discovery of Florida by Ponce de Leon''.

(b) DUTIES.—The Commission shall plan, encourage, coordinate, and conduct the commemoration of the Quincentennial.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 12 members—

(A) of whom 5 members shall be Republicans and 5 members shall be Democrats, including—

(i) 6 members, of whom 3 members shall be Republicans and 3 members shall be Democrats, appointed by the President;

(ii) 2 members, of whom 1 member shall be a Republican and 1 member shall be a Democrat, appointed by the President, on the recommendation of the Majority Leader and the Minority Leader of the Senate; and

(iii) 2 members, of whom 1 member shall be a Republican and 1 member shall be a Democrat, appointed by the President, on the recommendation of the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives; and

(B) including the Director of the National Park Service and the Secretary of the Smithsonian Institution.

(2) CRITERIA.—A member of the Commission shall be chosen from among individuals that have demonstrated a strong sense of public service, expertise in the appropriate professions, scholarship, and abilities likely to contribute to the fulfillment of the duties of the Commission.

(3) INTERNATIONAL PARTICIPATION.—Not later than 60 days after the date of enactment of this Act, the President shall invite the Government of Spain to appoint 1 individual to serve as a nonvoting member of the Commission.

(4) DATE OF APPOINTMENTS.—Not later than 60 days after the date of enactment of this Act, the members of the Commission described in paragraph (1) shall be appointed.

(d) TERM; VACANCIES.—

(1) TERM.—A member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(e) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(f) MEETINGS.—The Commission shall meet at the call of the co-chairpersons described under subsection (h).

(g) QUORUM.—A quorum of the Commission for decision making purposes shall be 7 members, except that a lesser number of members, as determined by the Commission, may conduct meetings.

(h) CO-CHAIRPERSONS AND VICE CO-CHAIRPERSONS.—

(1) CO-CHAIRPERSONS.—The President shall designate 2 of the members of the Commission, 1 of whom shall be a Republican and 1 of whom shall be a Democrat, to be co-chairpersons of the Commission.

(2) CO-VICE-CHAIRPERSONS.—The Commission shall select 2 co-vice-chairpersons, 1 of whom shall be a Republican and 1 of whom shall be a Democrat, from among the members of the Commission.

**SEC. 5. DUTIES.**

(a) IN GENERAL.—The Commission shall—

(1) conduct a study regarding the feasibility of creating a National Heritage Area or National Monument to commemorate the discovery of Florida;

(2) plan and develop activities appropriate to commemorate the Quincentennial including a limited number of proposed projects to be undertaken by the appropriate Federal departments and agencies that commemorate the Quincentennial by seeking to harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(3) consult with and encourage appropriate Federal departments and agencies, State and local governments, elementary and secondary schools, colleges and universities, foreign governments, and private organizations to organize and participate in Quincentennial activities commemorating or examining—

(A) the history of Florida;

(B) the discovery of Florida;

(C) the life of Ponce de Leon;

(D) the myths surrounding Ponce de Leon's search for gold and for the ''fountain of youth'';

(E) the exploration of Florida; and

(F) the beginnings of the colonization of North America; and

(4) coordinate activities throughout the United States and internationally that relate to the history and influence of the discovery of Florida.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the President and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a comprehensive report that includes specific recommendations for—

(A) the allocation of financial and administrative responsibility among participating entities and persons with respect to commemoration of the Quincentennial; and

(B) the commemoration of the Quincentennial and related events through programs and activities, including—

(i) the production, publication, and distribution of books, pamphlets, films, electronic publications, and other educational materials focusing on the history and impact of the discovery of Florida on the United States and the world;

(ii) bibliographical and documentary projects, publications, and electronic resources;

(iii) conferences, convocations, lectures, seminars, and other programs;

(iv) the development of programs by and for libraries, museums, parks and historic sites, including international and national traveling exhibitions;

(v) ceremonies and celebrations commemorating specific events;

(vi) the production, distribution, and performance of artistic works, and of programs and activities, focusing on the national and international significance of the discovery of Florida; and

(vii) the issuance of commemorative coins, medals, certificates of recognition, and stamps.

(2) ANNUAL REPORT.—The Commission shall submit an annual report that describes the activities, programs, expenditures, and donations of or received by the Commission to—

(A) the President; and

(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) FINAL REPORT.—Not later than December 31, 2013, the Commission shall submit a final report that describes the activities, programs, expenditures, and donations of or received by the Commission to—

(A) the President; and

(B) the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(c) ASSISTANCE.—In carrying out this Act, the Commission shall consult, cooperate with, and seek advice and assistance from appropriate Federal departments and agencies, including the Department of the Interior.

**SEC. 6. POWERS OF THE COMMISSION.**

(a) IN GENERAL.—The Commission may provide for—

(1) the preparation, distribution, dissemination, exhibition, and sale of historical, commemorative, and informational materials and objects that will contribute to public awareness of, and interest in, the Quincentennial, except that any commemorative coin, medal, or postage stamp recommended to be issued by the United States shall be sold only by a Federal department or agency;

(2) competitions and awards for historical, scholarly, artistic, literary, musical, and other works, programs, and projects relating to the Quincentennial;

(3) a Quincentennial calendar or register of programs and projects;

(4) a central clearinghouse for information and coordination regarding dates, events, places, documents, artifacts, and personalities of Quincentennial historical and commemorative significance; and

(5) the design and designation of logos, symbols, or marks for use in connection with the commemoration of the Quincentennial and shall establish procedures regarding their use.

(b) ADVISORY COMMITTEE.—The Commission may appoint such advisory committees as the Commission determines necessary to carry out the purposes of this Act.

**SEC. 7. ADMINISTRATION.**

(a) LOCATION OF OFFICE.—

(1) PRINCIPAL OFFICE.—The principal office of the Commission shall be in St. Augustine, Florida.

(2) SATELLITE OFFICE.—The Commission may establish a satellite office in Washington, D.C.

(b) STAFF.—

(1) APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR.—

(A) IN GENERAL.—The co-chairpersons, with the advice of the Commission, may appoint and terminate a director and deputy director without regard to the civil service laws (including regulations).

(B) DELEGATION TO DIRECTOR.—The Commission may delegate such powers and duties to the director as may be necessary for the efficient operation and management of the Commission.

(2) STAFF PAID FROM FEDERAL FUNDS.—The Commission may use any available Federal funds to appoint and fix the compensation of not more than 4 additional personnel staff members, as the Commission determines necessary.

(3) STAFF PAID FROM NON-FEDERAL FUNDS.—The Commission may use any available non-Federal funds to appoint and fix the compensation of additional personnel.

(4) COMPENSATION.—

(A) MEMBERS.—

(i) IN GENERAL.—A member of the Commission shall serve without compensation.

(ii) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(B) STAFF.—

(i) IN GENERAL.—The co-chairpersons of the Commission may fix the compensation of the director, deputy director, and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—

(I) DIRECTOR.—The rate of pay for the director shall not exceed the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(II) DEPUTY DIRECTOR.—The rate of pay for the deputy director shall not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(III) STAFF MEMBERS.—The rate of pay for staff members appointed under paragraph (2) shall not exceed the rate payable for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code.

(c) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(1) IN GENERAL.—On request of the Commission, the head of any Federal agency or department may detail any of the personnel of the agency or department to the Commission to assist the Commission in carrying out this Act.

(2) REIMBURSEMENT.—A detail of personnel under this subsection shall be without reimbursement by the Commission to the agency from which the employee was detailed.

(3) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(d) OTHER REVENUES AND EXPENDITURES.—

(1) IN GENERAL.—The Commission may procure supplies, services, and property, enter into contracts, and expend funds appropriated, donated, or received to carry out contracts.

(2) DONATIONS.—

(A) IN GENERAL.—The Commission may solicit, accept, use, and dispose of donations of money, property, or personal services.

(B) LIMITATIONS.—Subject to subparagraph (C), the Commission shall not accept donations—

(i) the value of which exceeds $50,000 annually, in the case of donations from an individual; or

(ii) the value of which exceeds $250,000 annually, in the case of donations from a person other than an individual.

(C) NONPROFIT ORGANIZATION.—The limitations in subparagraph (B) shall not apply in the case of an organization that is—

(i) described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(ii) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

(3) ACQUIRED ITEMS.—Any book, manuscript, miscellaneous printed matter, memorabilia, relic, and other material or property relating to the time period of the discovery of Florida acquired by the Commission may be deposited for preservation in national, State, or local libraries, museums, archives, or other agencies with the consent of the depositary institution.

(e) POSTAL SERVICES.—The Commission may use the United States mail to carry out this Act in the same manner and under the same conditions as other agencies of the Federal Government.

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated to carry out the purposes of this Act such sums as may be necessary for each of fiscal years 2005 through 2013.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under this section for any fiscal year shall remain available until December 31, 2013.

**SEC. 9. TERMINATION OF AUTHORITY.**

The authority provided by this Act terminates effective December 31, 2013.

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By Ms. COLLINS (for herself and Mr. AKAKA):

S. 2657. A bill to amend part III of title 5, United States Code, to provide for the establishment of programs under which supplemental dental and vision benefits are made available to Federal employees, retirees, and their dependents, to expand the contracting authority of the Office of Personnel Management, and for other purposes; to the Committee on Governmental Affairs.

Ms. COLLINS. Mr. President. I am pleased today to introduce legislation with my friend and colleague, Senator AKAKA, that would give Federal employees, retirees, and their families greater access to comprehensive dental and vision insurance coverage. The Federal Employee Dental and Vision Benefits Enhancement Act of 2004 would establish a voluntary program under which Federal employees and annuitants may purchase dental and vision coverage. The legislation grants the Office of Personnel Management (OPM) the authority to select the appropriate combination of nationwide and regional companies and a variety of benefit packages to meet the diverse needs of our Federal employee and annuitant population.

The National Institute of Dental and Craniofacial Research estimates that for every dollar spent on dental disease prevention, $4 is saved in subsequent treatment costs. Improved access to dental and vision care is an essential component of any comprehensive health care strategy. Federal employees need and deserve increased access to dental and vision benefits.

Today, the Federal community has access to excellent medical coverage through the Federal Employees Health Benefits Program (FEHB). Unfortunately, the program provides reimbursement for only a small fraction of dental care. Customer surveys indicate that FEHB enrollees want more comprehensive dental and vision benefits than those that are currently being provided in the FEHB program. The increasing demand for dental and vision benefits has prompted Senator AKAKA and me to pursue legislation that would offer separate and improved coverage for Federal employees, retirees, and their families.

The stand-alone model contained in my legislation preserves the integrity of the FEHB while encouraging the purchase of additional dental and vision coverage. It is important to note that nothing in my legislation prevents the existing medical carriers from continuing to offer dental and vision coverage under the FEHBP. Further, nothing in the legislation precludes current FEHBP carriers from participating in the competitive process to offer benefits under the new voluntary dental and vision programs. The legislation simply provides a mechanism for dental and vision companies to participate in the Federal employee benefits arena.

In recognition of the enormous fiscal pressures faced by the Federal Government, the legislation is designed to provide an employee-paid dental and vision benefit, patterned after the Federal Employees Long-Term Care Insurance Program. By leveraging the purchasing power of the Federal Government, combined with market-driven competition, OPM would have the ability to provide access to more comprehensive dental and vision coverage to employees and retirees at no cost to the Federal Government. Federal employees would have the confidence that OPM has given its seal of approval to the benefit packages provided under the voluntary programs.

The legislation recognizes the geographic dispersion of the Federal workforce and the need for greater access to care through local dental and eye health professionals by requiring companies to provide coverage in underserved areas. For example, companies selected to provide coverage to a particular region would be required to develop and maintain provider networks in all States, including States where access to care may be less available.

While the legislation lists general categories of benefits that may be offered under the new programs, the statutory model is flexible to ensure that the benefit packages can be modified over time to incorporate future advances in dental and vision products, therapies, and technologies.

Employees look to their employer to provide education about their benefits. For this reason, the legislation requires OPM to make available the educational tools necessary so that Federal employees have a clear understanding of the choices available to them. Employees will have access to information on how the voluntary plans can supplement the existing, though limited, coverage offered by their medical plan under the FEHBP, to meet their individual needs for care. OPM would also educate employees about the value of their existing Flexible Spending Accounts to help cover out-of-pocket dental and vision expenses. These options can help Federal employees and annuitants get the best value for their premium dollar.

Administration by OPM would ensure that each contract is awarded on the basis of quality and price, and that the companies understand and adapt to the needs of Federal employees, retirees, and their families. Additionally, OPM would provide participants access to a process to appeal adverse benefit determinations. Premiums can be made through payroll or annuity deductions, direct payments to the participating companies, or both. The plans would be open to all Federal civilian employees and annuitants, regardless of whether they currently participate in the FEHBP.

As with the Long-Term Care Insurance Program, our measure for the success of the dental and vision programs would be the extent to which Federal employees purchase these benefits.

My colleagues and I have recognized, through our support of legislation to assist the Federal Government with its recruitment and retention efforts, that the Federal Government's most important asset is its human capital. Employees of 48 State governments offer or provide access to dental benefit plans to employees. Surveys indicate that 95 percent of employers with 500 or more employees provide dental insurance. The opportunity to purchase enhanced dental and vision coverage will help the government with its ongoing efforts to recruit and retain a highly qualified workforce.

The legislation is supported by the American Federation of Government Employees, the National Treasury Employees Union, the National Association of Dental Plans, and the American Optometric Association. I hope my colleagues will join me in providing our

Federal employee community with greater access to dental and vision coverage.

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By Mr. DOMENICI (for himself, Mrs. FEINSTEIN, Mr. CRAIG, Mr. BINGAMAN, and Mr. DURBIN):

S. 2658. A bill to establish a Department of Energy National Laboratories water technology research and development program, and for other purposes; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President. There is no more important or essential substance to us than water. It is the source from which life springs. It also has the potential to be the source of incredible conflict ranging from local to international levels. Fresh water supplies are coming under pressure all over the globe. By mid-century, over half of the world's population will face severe water shortages. These shortages go beyond drinking water; particularly important is the nexus of water and energy production—another flash point in global affairs. Seriously confronting this problem before it leads to tremendous burdens on this nation and the world is an endeavor as worthwhile as any I can contemplate.

Research and development in this area has long been without concerted national attention. Water and water rights have traditionally been under the purview of the States, and rightly so. But few States have the capacity and funding to adequately address this problem. Users of water resources are highly risk averse and can ill afford to take chances on unproven technology. At the Federal level, at least seventeen agencies do water research, however only three currently engage in water supply augmentation research—the Department of Agriculture, the Bureau of Reclamation, and the Department of Energy. According to the National Research Council's June 17, 2004 report entitled ''Confronting the Nation's Water Problems: The Role of Research,'' the total Federal investment in water resources research in 2000 dollars has been level at $700m since 1967. The Federal investment in 2000 was 5 percent less than the investment in 1973 in indexed dollars. The total Federal water research investment of $700m represents about 0.5 percent of the Federal research budget—for the most fundamental resource need. Investment in Water supply augmentation research funding has declined from $160m in 1970 to $14m in 2000.

These circumstances have led to neglect in long-term, cutting edge, commercially viable research and development. This is ultimately untenable. We know what is possible, we have acted successfully before. Federal investment in the 1960's and 1970's is the basis for existing desalination technology that substantially expanded U.S. and world wide water supplies. We know that a similar investment can again achieve such results. Thus, the lack of Federal investment is unacceptable given our prior experiences and our complete and utter dependence on this resource.

Our nation's efforts to address these problems must be fought on multiple fronts. We must provide for development and maintenance of water infrastructure, particularly in rural areas. This is the infrastructure that sustains our lives and livelihoods. We must make our management of this precious resource more rational. We must make a concerted effort to more fully understand and extend the limits of our fresh and lower quality water. We must coordinate and enhance our technology to address both water quality and quantity. We cannot fight all these fronts with one effort, but we can begin to address aspects of the problem.

To that end, I introduce today the Department of Energy National Laboratories Water Research and Development Act of 2004. This admittedly ambitious bill authorizes a substantial Federal investment of up to $200 million per year for basic and applied research and development in water supply technologies. The emphasis of this program is developing and deploying new and affordable technology to improve water quantity and quality. Its primary goal is to facilitate and guide research, development, and deployment of affordable and cutting edge technology that increases the quantity and quality of water available for multiple uses. This will be done across the Nation, in a wide range of hydrogeographies and water situations.

The effort combines the expertise and resources of our great National Laboratories and universities across the country. The Program builds on the immense investment in new technology and basic science within the labs and universities and directs it toward this critical human need. It will also compliment and strengthen the many programs and efforts underway at Federal agencies and non-governmental organizations.

The Act authorizes the Department of Energy, through the National Laboratories, to partner with universities in specified regions to work on technology for particularized areas of research. Each region will be tasked with addressing a given range of issues. These include brine removal and inland desalination to re-use and conservation technology. Furthermore, the water and energy nexus will be fully explored. Pressures created by water needed to supply energy and energy necessary to produce usable water have not, to date, been sufficiently addressed.

A grant program will be created to augment existing efforts by non-program members. Many Federal agencies and non-governmental entities have ongoing projects in this arena including the Bureau of Reclamation (''BOR''), the Department of Agriculture (''USDA''), the Department of Defense (''DOD'') (through the Office of Naval Research), the Environmental Protection Agency (''EPA''), and NASA. Additionally, the Program fully incorporates public-private partnerships such as those already working with the American Water Resources Research Foundation, the WateReuse Foundation and many others.

Finally, this bill creates a National Water Supply Law and Policy Institute. The Policy Center's responsibilities include identifying intervention points where technological development may help alleviate real and potential water supply problems. The Policy Institute will act as a clearinghouse for relevant information on regulations, laws and codes—from municipal to national scales focused on helping to overcome obstacles of new technology that can expand water supplies.

The Program will be administered by a Program Coordinator appointed by the Secretary of Energy. The Coordinator will administer the program from facilities located at Sandia National Laboratory, our Nation's best applied engineering lab. Acting as the coordinating institution, Sandia is responsible for technology development road-mapping and assisting the Regional Centers in transferring their creations from bench-scale to commercialization. Sandia is also charged with guiding the Policy Center.

The conditions are present to necessitate the Federal government taking a lead role. We must act now. The costs of inaction will be borne by all of us. The market is skewed against development. It is a matter of personal and national security. It is a matter of human necessity. It is a matter of time.

The need is great. The goal is good. Let us begin.

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. 2658

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

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Department of Energy National Laboratories Water Technology Research and Development Act''.

**SEC. 2. PURPOSE.**

The purpose of this Act is to establish within the Department of Energy a program for research on and the development of economically viable technologies that would—

(1) substantially improve access to existing water resources;

(2) promote improved access to untapped water resources;

(3) facilitate the widespread commercialization of newly developed water supply technologies for use in real-world applications;

(4) provide objective analyses of, and propose changes to, current water supply laws and policies relating to the implementation and acceptance of new water supply technologies developed under the program; and

(5) facilitate collaboration among Federal agencies in the conduct of research under this Act and otherwise provide for the integration of research on, and disclosure of information relating to, water supply technologies.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) ADVISORY PANEL.—The term ''Advisory Panel'' means the National Water Supply Technology Advisory Panel established under section 5(a).

(2) INSTITUTE.—The term ''Institute'' means the National Water Supply Law and Policy Institute designated by section 8(a).

(3) PROGRAM.—The term ''program'' means the National Laboratories water technology research and development program established under section 4(a).

(4) PROGRAM COORDINATOR.—The term ''Program Coordinator'' means the individual appointed to administer the program under section 4(c).

(5) REGIONAL CENTER.—The term ''Regional Center'' means a Regional Center designated under subsection (b) or (e) of section 6.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) WATER SUPPLY TECHNOLOGY.—The term ''water supply technology'' means a technology that is designed to improve water quality, make more efficient use of existing water resources, or develop potential water resources, including technologies for—

(A) reducing water consumption in the production or generation of energy;

(B) desalination and related concentrate disposal;

(C) water reuse;

(D) contaminant removal, such as toxics identified by the Environmental Portection Agency and new and emerging contaminants (including perchlorate and nitrates);

(E) agriculture, industrial, and municipal efficiency; and

(F) water monitoring and systems analysis.

**SEC. 4. NATIONAL LABORATORIES WATER TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish a National Laboratories water technology research and development program for research on, and the development and commercialization of, water supply technologies.

(b) PROGRAM LEAD LABORATORY.—The program shall be carried out by the National Laboratories, with Sandia National Laboratory designated as the lead laboratory for the program.

(c) PROGRAM COORDINATOR.—

(1) IN GENERAL.—The Secretary shall appoint an individual at Sandia National Laboratory as the Program Coordinator to administer the program.

(2) DUTIES.—In carrying out the program, the Program Coordinator shall—

(A) establish budgetary and contracting procedures for the program;

(B) perform administrative duties relating to the program;

(C) provide grants under section 7;

(D) conduct peer review of water supply technology proposals and research results;

(E) establish procedures to determine which water supply technologies would most improve water quality, make the most efficient use of existing water resources, and provide optimum development of potential water resources.

(F) coordinate budgets for water supply technology research at Regional Centers;

(G) coordinate research carried out under the program, including research carried out by Regional Centers;

(H) perform annual evaluations of research progress made by grant recipients and Regional Centers;

(I) establish a water supply technology transfer program to identify, and facilitate commercialization of, promising water supply technologies, including construction and implementation of demonstration facilities, partnerships with industry consortia, and collaboration with other Federal programs;

(J) establish procedures and criteria for the Advisory Panel to use in reviewing Regional Center performance;

(K) widely distribute information on the program, including through research conferences; and

(L) implement cross-cutting research to develop sensor and monitoring systems for water and energy efficiency and management.

**SEC. 5. NATIONAL WATER SUPPLY TECHNOLOGY ADVISORY PANEL.**

(a) ESTABLISHMENT.—The Secretary shall establish an advisory panel, to be known as the ''National Water Supply Technology Advisory Panel'', to advise the Program Coordinator on the direction of the program and facilitating the commercialization of the water supply technologies developed under the program.

(b) MEMBERSHIP.—Members of the Advisory Panel shall—

(1) have expertise in water supply technology; and

(2) be representative of educational institutions, industry, States, local government, international water technology institutions, other Federal agencies, and nongovernmental organizations.

(c) ASSESSMENT RESPONSIBILITIES.—In addition to other responsibilities, the Advisory Panel shall—

(1) periodically assess the performance of the National Laboratories and universities designated as Regional Centers under section 6; and

(2) make recommendations to the Secretary for renewing the designation of Regional Centers.

**SEC. 6. REGIONAL CENTERS.**

(a) IN GENERAL.—A Regional Center shall—

(1) consist of 1 National Laboratory designated under subsection (b) or (e), acting in partnership with 1 or more universities selected under subsection (c); and

(2) be eligible for a grant under section 7(a) for the conduct of research on the specific water supply technologies identified under subsection (b) or (e).

(b) INITIAL REGIONAL CENTERS.—There are designated as Regional Centers—

(1) the Northeast Regional Center, consisting of the Brookhaven National Laboratory and any university partners selected under subsection (c), which shall conduct research on reducing water quality impacts from power plant outfall and decentralized (soft-path) water treatment;

(2) the Central Atlantic Regional Center, consisting of the National Energy Technology Laboratory and any university partners selected under subsection (c), which shall conduct research on produced water purification and use for power production and water reuse for large cities;

(3) the Southeast Regional Center, consisting of the Oak Ridge National Laboratory and any university partners selected under subsection (c), which shall conduct research on—

(A) shallow aquifer conjunctive water use;

(B) energy reduction for sea water desalination; and

(C) membrane technology development.

(4) the Midwest Regional Center, consisting of the Argonne National Laboratory and any university partners selected under subsection (c), which shall conduct research on—

(A) water efficiency in manufacturing; and

(B) energy reduction in wastewater treatment;

(5) the Central Regional Center, consisting of the Idaho National Engineering and Environmental Laboratory and any university partners selected under subsection (c), which shall conduct research on—

(A) cogeneration of nuclear power and water;

(B) energy systems for pumping irrigation; and

(C) watershed management;

(6) the West Regional Center, consisting of the Pacific Northwest National Laboratory and any university partners selected under subsection (c), which shall conduct research on conjunctive management of hydropower and mining water reuse, including separations processes;

(7) the Southwest Regional Center, consisting of the Los Alamos National Laboratory and any university partners selected under subsection (c), which shall conduct research on—

(A) water for power production in arid environments;

(B) energy reduction and waste disposal for brackish desalination;

(C) high water and energy efficiency in arid agriculture; and

(D) transboundary water management; and

(8) the Pacific Regional Center, consisting of the Lawrence Livermore National Laboratory and any university partners selected under subsection (c), which shall conduct research on—

(A) point of use technology, water treatment, and conveyance energy reduction;

(B) co-located energy production and water treatment; and

(C) water reuse for agriculture.

(c) SELECTION OF UNIVERSITY PARTNERS.—Not later than 180 days after the date on which a National Laboratory is designated under subsection (b) or (e), each National Laboratory, in consultation with the Program Coordinator and the Advisory Panel, shall select a primary university partner and may nominate additional university partners.

(d) OPERATIONAL PROCEDURES.—Not later than 1 year after the date of enactment of this Act, a Regional Center designated by subsection (b) shall submit to the Program Coordinator operational procedures for the Regional Center.

(e) ADDITIONAL REGIONAL CENTERS.—Subject to approval by the Advisory Panel, the Program Coordinator may, not sooner than 5 years after the date of enactment of this Act, designate not more than 4 additional Regional Centers if the Program Coordinator determines that there are additional water supply technologies that need to be researched.

(f) PERIOD OF DESIGNATION.—

(1) IN GENERAL.—A designation by subsection (b) or under subsection (c) shall be for a period of 5 years.

(2) ASSESSMENT.—A Regional Center shall be subject to periodic assessments by the Program Coordinator in accordance with procedures and criteria established under section 4(b)(2)(K)(i).

(3) RENEWAL.—After the initial period under paragraph (1), a designation may be renewed for subsequent 5-year periods by the Program Coordinator in accordance with procedures and criteria established under section 4(b)(2)(K)(ii).

(4) TERMINATION OR NONRENEWAL.—

(A) IN GENERAL.—Based on a periodic assessment conducted under paragraph (2), in accordance with the procedures and criteria established under section 4(b)(2)(K)(iii), and after review by the Advisory Panel, the Program Coordinator may recommend that the Secretary terminate or determine not to renew the designation of a Regional Center.

(B) TERMINATION.—Following a recommendation for termination or nonrenewal by the Program Coordinator, the Secretary

may terminate or choose not to renew the designation of a Regional Center.

(g) EXECUTIVE DIRECTOR.—A Regional Center shall be administered by an executive director, subject to approval by the Program Coordinator.

(h) PUBLICATION OF RESEARCH RESULTS.—A Regional Center shall periodically publish the results of any research carried out under the program in appropriate peer-reviewed journals.

**SEC. 7. PROGRAM GRANTS.**

(a) BLOCK GRANTS TO REGIONAL CENTERS.—

(1) IN GENERAL.—The Program Coordinator shall, subject to the availability of appropriations, provide a block grant to a Regional Center for the conduct of research in the specific area identified for the Research Center under section 6(b).

(2) DISTRIBUTION.—Of the amounts made available to a Regional Center under paragraph (1), 50 percent shall be distributed to the university partners selected under section 6(c), in accordance with the operational procedures for the Regional Center developed under section 6(d).

(3) COST-SHARING REQUIREMENT.—A National Laboratory or university partner that receives a grant provided under this subsection shall not be subject to a cost-sharing requirement.

(b) GRANTS TO COLLABORATIVE INSTITUTIONS.—

(1) IN GENERAL.—The Program Coordinator shall provide competitive grants to eligible collaborative institutions for water supply technology research, development, and demonstration projects.

(2) ELIGIBLE COLLABORATIVE INSTITUTIONS.—The following are eligible for grants under paragraph (1):

(A) Nongovernmental organizations.

(B) National Laboratories.

(C) Private corporations.

(D) Industry consortia.

(E) Universities or university consortia.

(F) International research consortia.

(G) Any other entity with expertise in the conduct of research on water supply technologies.

(3) DISTRIBUTION.—Of the amounts made available for grants under paragraph (1)—

(A) not less than 15 percent or more than 25 percent shall be provided as block grants to nongovernmental organizations, which may be redistributed by the nongovernmental organization to individual projects;

(B) not less than 20 percent or more than 30 percent shall be provided to National Laboratories;

(C) not less than 15 percent or more than 25 percent shall be provided to support individual projects that are recommended by at least 1 other Federal Agency; and

(D) any amounts remaining after the distributions under subparagraphs (A) through (C) may be provided to support individual projects, as the Program Coordinator determines to be appropriate.

(4) COST-SHARING REQUIREMENTS.—

(A) GRANTS TO NONGOVERNMENTAL ORGANIZATIONS AND INDIVIDUAL PROJECTS.—The non-Federal share of the total cost of any project assisted under subparagraphs (A) or (C) of paragraph (3) shall be 50 percent.

(B) GRANTS TO NATIONAL LABORATORIES.—A National Laboratory that receives a grant under paragraph (3)(B) shall not be subject to a cost-sharing requirement.

(C) GRANTS TO OTHER ENTITIES.—The non-Federal share of the total cost of any project assisted under paragraph (3)(D) shall be 25 percent.

(5) TERM OF GRANT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a grant provided under paragraph (1) shall be for a term of 2 years.

(B) RENEWAL.—The Program Coordinator may renew a grant for up to 2 additional years as the Program Coordinator determines to be appropriate.

(6) TREATMENT OF FUNDS.—Amounts received under a grant provided to a non-Federal entity under this subsection shall be considered to be non-Federal funds when used as matching funds by the non-Federal entity toward a Federal cost-shared project conducted under another program.

(7) CRITERIA.—The Program Coordinator shall establish criteria for the submission and review of grant applications and the provision of grants under paragraph (1).

**SEC. 8. NATIONAL WATER SUPPLY LAW AND POLICY INSTITUTE.**

(a) DESIGNATION.—The Utton Center at the University of New Mexico Law School is designated as the National Water Supply Law and Policy Institute.

(b) DUTIES.—The Institute shall—

(1) establish a database of existing water laws, regulations, and policy;

(2) provide legal, regulatory, and policy alternatives to increase national and international water supplies;

(3) consult with the Regional Centers, other participants in the program (including States), and other interested persons, on water law and policy and the effect of that policy on the development and commercialization of water supply technologies; and

(4) conduct an annual water law and policy seminar to provide information on research carried out or funded by the Institute.

(c) PARTNERSHIPS.—The Institute may enter into partnerships with other institutions to assist in carrying out the duties of the Institute under subsection (b).

(d) EXECUTIVE DIRECTOR.—The Institute shall be administered by an executive director, to be appointed by the dean of the University of New Mexico Law School, in consultation with the Program Coordinator.

**SEC. 9. REPORTS.**

(a) REPORTS TO PROGRAM COORDINATOR.—Any Regional Center, National Laboratory, or collaborative institution that receives a grant under section 7 shall submit to the Program Coordinator an annual report on activities carried out using amounts made available under this Act during the preceding fiscal year.

(b) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act and each year thereafter, the Program Coordinator shall submit to the Secretary and Congress a report that describes the activities carried out under this Act.

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary for fiscal year 2005 and each subsequent fiscal year—

(1) for the administration of the program by the Program Coordinator and the construction of any necessary program facilities, $25,000,000; and

(2) for research and development carried out under the program, $200,000,000.

(b) ALLOCATION.—Of amounts made available under subsection (a)(2) for a fiscal year—

(1) at least 15 percent shall be made available for the water supply technology transfer program established under section 4(b)(2)(I);

(2) the lesser of $10,000,000 or 5 percent shall be made available for grants under section 7(a);

(3) at least 30 percent shall be made available for grants to collaborative institutions under section 7(b); and

(4) the lesser of $10,000,000 or 5 percent shall be made available for the Institute.

## SUBMITTED RESOLUTIONS

## SENATE RESOLUTION 405—HONORING FORMER PRESIDENT GERALD R. FORD ON THE OCCASION OF HIS 91ST BIRTHDAY AND EXTENDING THE BEST WISHES OF THE SENATE TO FORMER PRESIDENT FORD AND HIS FAMILY

Ms. STABENOW (for herself, Mr. LEVIN, and Mr. HATCH) submitted the following resolution; which was considered and agreed to:

S. RES. 405

Whereas Gerald Rudolph Ford was born on July 14, 1913;

Whereas Gerald R. Ford is the only person from the State of Michigan to have served as President of the United States;

Whereas Gerald R. Ford graduated from the University of Michigan where he was a star center on the football team and later turned down offers to play in the National Football League;

Whereas Gerald R. Ford attended Yale University Law School and graduated in the top 25 percent of his class while also working as a football coach;

Whereas in 1942, Gerald R. Ford joined the United States Navy Reserves and served valiantly on the U.S.S. Monterey in the Philippines during World War II, surviving a heavy storm during which he came within inches of being swept overboard;

Whereas the U.S.S. Monterey earned 10 battle stars, awarded for participation in battle, while Gerald R. Ford served on the ship;

Whereas Gerald R. Ford was released to inactive duty in 1946 with the rank of Lieutenant Commander;

Whereas in 1948, Gerald R. Ford was elected to the House of Representatives where he served with integrity for 25 years;

Whereas in 1963, President Lyndon Johnson appointed Gerald R. Ford to the Warren Commission investigating the assassination of President John F. Kennedy;

Whereas from 1965 to 1973, Gerald R. Ford served as minority leader of the House of Representatives;

Whereas from 1974 to 1976, Gerald R. Ford served as the 38th President of the United States, taking office at a dark hour in the history of the United States and restoring the faith of the people of the United States in the Presidency through his wisdom, courage, and integrity;

Whereas in 1975, the United States signed the Final Act of the Conference on Security and Cooperation in Europe, commonly known as the ''Helsinki Agreement'', which ratified post-World War II European borders and supported human rights;

Whereas since leaving the Presidency, Gerald R. Ford has been an international ambassador of American goodwill, a noted scholar and lecturer, and a strong supporter of the Gerald R. Ford School of Public Policy at the University of Michigan, which was named for the former President in 1999;

Whereas Gerald R. Ford was awarded the Congressional Gold Medal in 1999; and

Whereas on July 14, 2004, Gerald R. Ford will celebrate his 91st birthday: Now, therefore, be it

*Resolved,* That the Senate honors former President Gerald R. Ford on the occasion of his 91st birthday and extends its congratulations and best wishes to former President Ford and his family.

## NOTICES OF HEARINGS/MEETINGS

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 resolution is added to the agenda for the Subcommittee on National Parks hearing for Thursday, July 15, 2004, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

S. Con. Res. 121, a concurrent resolution supporting the goals and ideals of the World Year of Physics.

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 COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 14, 2004, at 9:30 a.m. on Home Products Fire Safety.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 14, 2004, at 2:30 p.m. on Adult Stem Cell Research.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FRIST. 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 Wednesday, July 14, at 11:30 a.m. to consider pending calendar business.

Agenda Item 1: S. 203—A bill to open certain withdrawn land in Big Horn County, Wyoming, to locatable mineral development for bentonite mining.

Agenda Item 4: S. 931—A bill to direct the Secretary of the Interior to undertake a program to reduce the risks from and mitigate the effects of avalanches on visitors to units of the National Park System and on other recreational users of public land.

Agenda Item 7: 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.

Agenda Item 14: S. 2052—A bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail.

Agenda Item 16: S. 2140—A bill to expand the boundary of the Mount Rainier National Park.

Agenda Item 17: S. 2167—A bill to establish the Lewis and Clark National Historical Park in the States of Washington and Oregon, and for other purposes.

Agenda Item 18: S. 2173—A bill to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000.

Agenda Item 19: S. 2285—A bill to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah.

Agenda Item 20: S. 2287—A bill to adjust the boundary of the Barataria Preserve Unit of Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes.

Agenda Item 21: 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.

Agenda Item 22: S. 2508—A bill to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse.

Agenda Item 23: 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, New Mexico, and for other purposes.

Agenda Item 24: S. 2543—A bill to establish a program and criteria for National Heritage Areas in the United States, and for other purposes.

Agenda Item 27: H.R. 1284—To amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the costs of the San Gabriel Basin demonstration project.

Agenda Item 29: H.R. 1616—To authorize the exchange of certain lands within the Martin Luther King, Junior, National Historic Site for lands owned by the City of Atlanta, Georgia, and for other purposes.

Agenda Item 30: H.R. 3768—To expand the Timucuan Ecological and Historic Preserve, Florida.

In addition, the Committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on July 14, 2004, at 10 a.m., in a mock markup to consider proposed legislation implementing the U.S.-Morocco Free Trade Agreement; and to consider favorably reporting S. 2610, the U.S.-Australia Free Trade Agreement Implementation Act; and the nominations of Joey Russell George, to be Treasury Inspector General for Tax Administration, U.S. Department of Treasury; Patrick P. O'Carroll, Jr., to be Inspector General, Social Security Administration; Timothy S. Bitsberger, to be Assistant Secretary for Financial Markets, U.S. Department of Treasury; Paul B. Jones, to be Member, IRS Oversight Board; and, Charles L. Kolbe, to be Member, IRA Oversight Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 14, 2004, at 9:30 a.m., to hold a hearing on Pakistan: Balancing Reform and Counterterrorism.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, July 14, 2004, at 2:30 p.m., to hold a hearing on U.S. Policy Toward Southeast Europe: Unfinished Business in the Balkans.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, July 14, 2004, at 10 a.m., in room 485 of the Russell Senate Office Building, to conduct an oversight hearing on the American Indian Religious Freedom Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Wednesday, July 14, 2004, at 10 a.m. on ''Examining the Implications of Drug Importation'' in the Dirksen Senate Office Building Room 226. The witness list will be delivered later today.

*Witness List*

Panel I: Hon. John Breaux, U.S. Senator; and Hon. Bryon Dorgan, U.S. Senator.

Panel II: William K. Hubbard, Associate Commissioner for Policy and Planning, U.S. Food and Drug Administration; John Taylor, III, Associate Commissioner for Regulatory Affairs, U.S. Food and Drug Administration; and Elizabeth G. Durant, Director of Trade Programs, Bureau of Customs and Border Protection.

Panel III: Hon. Rudolph Giuliani; Carmen Catizone, M.S., RPh, DPh, Executive Director/Secretary, National Association of Boards of Pharmacy Boards; Kathleen Jaeger, President and CEO, GPhA; Ms. Joanna Disch, Board Member, AARP; and Ms. Elizabeth A. Wennar, M.P.H, D.H.A., President and CEO, United Health Alliance of Bennington, VT and Principle, HealthInova of Manchester, VT, United Health Alliance, Health Care Economist.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr FRIST. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, July 14, 2004, at 9:30 a.m., to conduct an oversight hearing on the Federal Election Commission.

The PRESIDING OFFICER. Without objection, is is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. FRIST. Mr. President, I ask unanimous consent that the subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, July 14, at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 2317, to limit the royalty on soda ash; S. 2353, to reauthorize and amend the National Geologic Mapping Act of 1992; H.R. 1189, to increase the waiver requirement for certain local matching requirements for grants provided to American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, and for other purposes; and H.R. 2010, to protect the voting rights of members of the armed services in elections for the delegate representing American Samoa in the United States House of Representatives, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HONORING FORMER PRESIDENT GERALD FORD ON HIS 91ST BIRTHDAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 405, which was submitted earlier today by Senators STABENOW and LEVIN.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 405) honoring former President Gerald R. Ford on the occasion of his 91st birthday, and sending the best wishes of the Senate to former President Ford and his family.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEVIN. Mr. President, today I join my colleague from Michigan in supporting resolution honoring Gerald R. Ford, the 38th President of the United States on the occasion of his 91st birthday.

President Ford, the favorite son of the city of Grand Rapids, and the only President from Michigan, played a memorable role in our Nation's history in one of its darkest hours. The first Vice-President appointed under the 25th amendment to the Constitution, he became president when Richard Nixon resigned in the wake of the Watergate scandal. It was Gerald Ford's calm and steady leadership that began the process of healing our Nation's wounds after one of the most serious domestic crises in our history. President Clinton awarded him the Medal of Freedom, in 1999, in recognition of that leadership.

Gerald Ford served thirteen terms in the House of Representatives. From 1965 through 1973, he was the minority leader in that body. It is particularly instructive in this time of partisan division in the Congress to reflect on his example as one who fought many battles on behalf of his party, and his constituency, but who did so without acrimony or ill-will. He build life-long relationships and friendships across the party aisle—even with his opposite numbers in the House Democratic leadership. We would be well served at this time in this body to remember his example.

I extend my congratulations and best wishes to Gerry Ford, his wonderful wife, Betty, and his family. I am certain that the people of Michigan, and our colleagues in the Senate join Senator STABENOW and me in paying tribute to President Ford on his 91st birthday.

Ms. STABENOW. Mr. President, I rise today to pay tribute to the only person from the State of Michigan to have served as President of the United States. On behalf of the people of the State of Michigan, I want to extend my best wishes to President Gerald R. Ford and his family on the occasion of his 91st birthday.

President Ford took office during an extraordinarily trying time for America. He was the first Vice President chosen under the terms of the Twenty-Fifth Amendment and, in the aftermath of Watergate, succeeded the first American President ever to resign. In his inaugural address on August 9, 1974, President Ford noted, ''This is an hour of history that troubles our minds and hurts our hearts.'' Gerald Ford took on the challenge of healing our national faith in the presidency with courage, wisdom and integrity.

Indeed, it was President Ford's reputation for openness and integrity that propelled him into the White House. He was appointed Vice President after serving twelve terms in the U.S. House of Representatives, having secured each term with more than 60 percent of the vote. The confidence of his colleagues fueled his ascent to Ranking Member on the Defense Appropriations Subcommittee and, eventually, to Minority Leader. It also won him an appointment to the Warren Commission investigating the assassination of President John F. Kennedy.

As President, Gerald Ford led our Nation on the path toward healing a wounded faith in that office. He also labored to improve relationships among nations. In his own words ''a dyed-in-the-wool internationalist,'' President Ford presided over the signing of the Helsinki Agreement, which ratified post-World War II European borders and codified international human rights standards. He also worked for improved relations among the nations of the Middle East and, together with Soviet leader Leonid Brezhnev, set new limitations on nuclear proliferation.

Since leaving the White House in 1977, President Ford has remained actively engaged in the political process and has continued to speak out on important issues. He has lectured at hundreds of colleges and universities, hosted numerous forums on public affairs, and served as an adjunct professor of Government at the University of Michigan. In 1999, President Bill Clinton awarded Ford the Presidential Medal of Freedom, the Nation's highest civilian honor.

Gerald Ford has also made an important mark in his home State of Michigan. In 1977, he announced the establishment of the Gerald R. Ford Institute for Public Policy and Service at Albion College, which administers an interdisciplinary program for undergraduate students preparing for careers in public service. In 1981, the Gerald R. Ford Library in Ann Arbor and the Gerald R. Ford Museum in Grand Rapids were dedicated. Through these institutions, the people of Michigan and many visitors from around the country and the world continue to benefit from President Ford's legacy of internationalism, scholarship and humor.

President Ford, on the occasion of your 91st birthday, the American people salute you, and express our profound gratitude for your leadership and service.

Mr. President. I yield the floor.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 405) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 405

Whereas Gerald Rudolph Ford was born on July 14, 1913;

Whereas Gerald R. Ford is the only person from the State of Michigan to have served as President of the United States;

Whereas Gerald R. Ford graduated from the University of Michigan where he was a star center on the football team and later turned down offers to play in the National Football League;

Whereas Gerald R. Ford attended Yale University Law School and graduated in the top 25 percent of his class while also working as a football coach;

Whereas in 1942, Gerald R. Ford joined the United States Navy Reserves and served valiantly on the U.S.S. Monterey in the Philippines during World War II, surviving a heavy storm during which he came within inches of being swept overboard;

Whereas the U.S.S. Monterey earned 10 battle stars, awarded for participation in battle, while Gerald R. Ford served on the ship;

Whereas Gerald R. Ford was released to inactive duty in 1946 with the rank of Lieutenant Commander;

Whereas in 1948, Gerald R. Ford was elected to the House of Representatives where he served with integrity for 25 years;

Whereas in 1963, President Lyndon Johnson appointed Gerald R. Ford to the Warren Commission investigating the assassination of President John F. Kennedy;

Whereas from 1965 to 1973, Gerald R. Ford served as minority leader of the House of Representatives;

Whereas from 1974 to 1976, Gerald R. Ford served as the 38th President of the United States, taking office at a dark hour in the history of the United States and restoring the faith of the people of the United States in the Presidency through his wisdom, courage, and integrity;

Whereas in 1975, the United States signed the Final Act of the Conference on Security and Cooperation in Europe, commonly known as the ''Helsinki Agreement'', which ratified post-World War II European borders and supported human rights;

Whereas since leaving the Presidency, Gerald R. Ford has been an international ambassador of American goodwill, a noted scholar and lecturer, and a strong supporter of the Gerald R. Ford School of Public Policy at the University of Michigan, which was named for the former President in 1999;

Whereas Gerald R. Ford was awarded the Congressional Gold Medal in 1999; and

Whereas on July 14, 2004, Gerald R. Ford will celebrate his 91st birthday: Now, therefore, be it

*Resolved*, That the Senate honors former President Gerald R. Ford on the occasion of his 91st birthday and extends its congratulations and best wishes to former President Ford and his family.

## CLARIFYING CERTAIN RETIREMENT PLANS

Mr. FRIST. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 2589 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2589) to clarify the status of certain retirement plans and the organizations which maintain the plans.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2589) was read the third time and passed.

(The bill will be printed in a future edition of the CONGRESSIONAL RECORD.)

## HELPING HANDS FOR HOMEOWNERSHIP ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H. R. 4363 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4363) to facilitate self-help housing homeownership opportunities.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4363) was read the third time and passed.

## APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 99–498, appoints the following individual as a member of the Advisory Committee on Student Financial Assistance: Clare M. Cotton of Massachusetts.

## ORDERS FOR THURSDAY, JULY 15, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, July 15. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for the transaction of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee, and the final 30 minutes under the control of the majority leader or his designee; provided, that following morning business, the Senate begin consideration of Calendar No. 591, H.R. 4520, the FSC/ETI JOBS bill, as provided under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, following morning business, the Senate will begin debate on the FSC/ETI JOBS bill. Under the previous agreement, there will be up to 3 hours of debate on the DeWine-Kennedy FDA and tobacco amendment. We will vote on that amendment later tomorrow afternoon.

We will also take up H.R. 4759, the Australian free trade bill tomorrow and complete that measure as well. Therefore, Senators can expect a couple of votes later in the day on Thursday.

## MEASURE READ THE FIRST TIME—S. 2652

Mr. FRIST. Mr. President, I understand that S. 2652 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2652) to amend title XVIII of the Social Security Act to deliver a meaningful benefit and lower prescription drug prices under the medicare program.

Mr. FRIST. I now ask for its second reading, and in order to place the bill on the Calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. The bill will be read the second time on the next legislative day.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:18 p.m., adjourned until Thursday, July 15, 2004, at 9:30 a.m.

# EXTENSIONS OF REMARKS

## A TRIBUTE IN HONOR OF MORLEY FRASER OF ALBION, MICHIGAN

### HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. SMITH of Michigan. Mr. Speaker, I rise to honor and remember H. Morley Fraser, a wonderful friend of mine and the beloved Albion College coach and mentor to generations of students, alumni and colleagues, who lost his struggle with cancer June 28, 2004 at the age of 82.

A native of Milwaukee and a graduate of Washburn University in Topeka, Kansas, and Michigan State University, Morley was a Navy captain during World War II. He began his coaching career in the high school ranks in 1947, coaching for 2 years in Kansas prior to moving to Newberry, Michigan in the Upper Peninsula. At Newberry High School, he compiled a 22–0–1 record in football and had 3 conference championships in 3 years. His Newberry track team earned the 1951 conference title and regional championship. Morley then moved to Lansing and in a 2-year stint at Lansing Eastern High School, he moved a last-place team to a second-place finish in the school's 5–A conference. He moved to Albion in 1954.

As Albion College's head baseball coach for 18 years, Morley won 6 Michigan Intercollegiate Athletic Association championships. But he will be best remembered for the 14 years he prowled the sidelines as Britons' head football coach. During that era, Albion won 5 MIAA championships, compiled an 81–41–1 record, had 5 MIAA Most Valuable Players, recorded 2 undefeated seasons, and had a winning streak of 15 consecutive games. The school's football field is now named after him.

After leaving coaching, Morley joined Albion's administration and was executive director of the Albion College Conference Center from 1973–1989. He was chosen for the National Fellowship of Christian Athletes Hall of Champions, the Upper Peninsula Sports Hall of Fame and received the Lifetime Leadership and Athletic Hall of Fame award from Albion College.

Although he was best known for his work at Albion, Morley was also known throughout the State as a motivational speaker, routinely giving 200 speeches a year. Among his many engagements, University of Michigan football coach Lloyd Carr invited him to speak to his team before a game every season. He was a mentor to generations of athletes and coaches throughout the Great Lakes region.

Morley was also involved in several organizations locally and nationally. In addition to the Fellowship of Christian Athletes, he was a member of the Albion Rotary, the Jackson Kiwanis, and served as the longtime Sigma Nu fraternity adviser at Albion College. He was also a member of the Albion First United Methodist Church for 50 years. Morley Fraser loved people, his community, and his country.

Coach Fraser was a man whose dedication for coaching was only exceeded by his love for his players themselves. He demanded nothing less than the best and he always saw the best in everyone. Morley had a preternatural ability to not only teach offense and defense, but also responsibility, loyalty, civility, and virtue. Most importantly, he lived the values, virtues, and lessons that he taught. To balance his tenacity on the athletic field, he was a gentle, compassionate, and loving husband, father, and friend.

On behalf of the United States Congress, we offer our condolences to Morley's beloved wife of 57 years, Elizabeth, his daughters, Diane and Kathy, his sons, Morley Jr. and Douglas, his 11 grandchildren, and his 2 great-grandchildren. Morley was passionate for his causes and was a role model for all of us who seek to improve our communities and our country. We offer our thanks to Morley for all he did for countless students, alumni, colleagues and his community.

## PERSONAL EXPLANATION

### HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. TANCREDO. Mr. Speaker, I was unavoidably detained during rollcall vote Nos. 326 and 327. Had I been present, I would have voted ''aye'' on both.

I was also unavoidably detained during rollcall vote Nos. 355, 356, 357, and 358. Had I been present, I would have voted ''no'' on No. 355, ''no'' on No. 356, ''no'' on No. 357, and ''no'' on No. 358.

## PERSONAL EXPLANATION

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Ms. DELAURO. Mr. Speaker, I was unavoidably detained yesterday due to severe weather that prevented me from arriving in Washington, DC from Connecticut in time for House business. Due to the storm, I missed a series of votes (rollcall Nos. 359–362) on the FY 2005 Legislative Branch Appropriations bill. Had I been present, I would have voted ''aye'' on rollcall No. 359, ''no'' on rollcall No. 360, ''aye'' on rollcall No. 361, and ''aye'' on rollcall No. 362.

## A TRIBUTE IN HONOR OF DALE KOROLUCK OF RIVERSIDE, CALIFORNIA

### HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. SMITH of Michigan. Mr. Speaker, I rise to honor Dale Koroluck, an exceptionally bright young man who has been awarded the President's Award for Educational Excellence for 2003.

Dale is an inquisitive, high energy, intelligent student who will be entering the. eighth grade at Amelia Earhart Middle School in the fall. He excels academically among his peers and also consistently demonstrates the motivation, initiative, integrity, leadership qualities and exceptional judgment that set him apart from his fellow students.

Although Dale's favorite subjects are math and science, he truly enjoys engaging in debate and public speaking. He hopes that his budding litigation skills will someday prove useful while attending law school. Dale also likes to play football and basketball, and he has trained to earn his first degree-black belt in Taekwondo.

On behalf of the United States Congress, we offer our congratulations to Dale for earning this prestigious academic award and applaud him for his tenacity to learn. Dale is passionate in all of his endeavors and serves as a fine role model for his peers.

We also extend our compliments to Dale's wonderful parents, Kay and Daryl, and his brother Dillon. I suspect that it is very likely that Dale and Dillon will follow in the family tradition of being involved in public service and possibly someday run for public office.

## PERSONAL EXPLANATION

### HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. TIAHRT. Mr. Speaker, on July 12th, I missed four rollcall votes numbered 359, 360, 361 and 362.

Rollcall No. 359 was a vote on agreeing to the Holt Amendment. Had I been present I would have voted ''nay.''

Rollcall No. 360 was a vote on agreeing to the Hefley Amendment. Had I been present I would have voted ''nay.''

Rollcall No. 361 was a vote on the Sherman Motion to Recommit H.R. 4755. Had I been present I would have voted ''nay.''

Rollcall No. 362 was a vote on final passage of H.R. 4755. Had I been present I would have voted ''yea.''

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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

## TRIBUTE TO LORRAINE CEPHUS

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. ANDREWS. Mr. Speaker, I rise today to honor Lorraine Cephus of Cherry Hill, New Jersey, and to celebrate her outstanding achievements as a runner.

Lorraine was an avid high school athlete, playing softball and running track. She only began running seriously in her 30s after her two children were born and while her husband Louis, an Army colonel, was stationed in Germany.

At 74 years old, the grandmother of two runs an astonishing six miles everyday. She has completed countless marathons, logging over 100,000 miles. Since 1976, she has completed 28 consecutive Marine Corp Marathons, the only women to ever accomplish this feat. While she competes in other races around the country, the Marine Corp Marathon has special significance to her, as the race passes Arlington National Cemetery where her beloved husband Louis is buried. Every year as she runs past the cemetery, Lorraine salutes and says a prayer for her late husband.

People in her community know Lorraine not only for her extraordinary athleticism but for her friendly nature and sunny disposition. May she continue to serve as an inspiration to all of us to live a healthy and active lifestyle for many years to come.

I congratulate Lorraine on her spectacular accomplishments, and wish her the best of luck as she trains to compete in her 29th Marine Corps Marathon this fall.

## EXPRESSING SENSE OF THE HOUSE ON ESTABLISHING NATIONAL COMMUNITY HEALTH CENTER WEEK

SPEECH OF

### HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 12, 2004*

Mr. RUSH. Mr. Speaker, I rise in support of H. Res. 646, a resolution expressing the sense of the House that the Congress should establish a National Community Health Centers week. I want to commend my good friend and colleague from Chicago, Congressman DANNY DAVIS, for introducing this resolution, to recognize the vitally important work that community health centers do in both urban and rural areas in this nation.

Community, migrant, and homeless health centers play an absolutely critical role in providing quality health care services to the poor and uninsured citizens in this nation. In Illinois generally, and Chicago, especially, these centers provide the only access that some of our citizens have to health care. The providers in these facilities are in the trenches each and every day and our constituents are served well by their dedication and devotion.

Mr. Speaker, it is fitting that I take a moment while we are debating this issue to commemorate the life of one of the leaders in community health care in the state of Illinois.

Mr. C. Michael Savage, 51, the Chief Executive Officer of the Access Community Health Network was killed white water rafting in Alaska while attending a conference on June 24, 2004: all in the Chicago community are mourning his loss.

Mike's dedication, drive and devotion were responsible for turning around Access Community Health Network and making it the largest community health provider in the country. Access is based in Chicago and provides health services to the residents of the First Congressional District and the metropolitan Chicago area. But Mike's work and his impact with Access has been felt all over the country. The Access network is a model for other community health centers around the nation, and much of that reality is because of Mike's unwavering commitment to the challenge of improving health care delivery in this nation.

When I introduced legislation earlier this year designed to make affordable prescription drugs available to low income residents of the First Congressional District, Mike was there. When I created a community-based task force to examine the health care challenges my constituents face everyday, Mike was there. When providers come to Washington every year to urge the Congress to increase funding for community-based health centers, Mike was always there.

Mr. Speaker, on June 24, 2004, not only did Illinois lose a caring, dedicated and supremely empathetic health care provider whose compassion for the poor was unparalled, but so did the nation. He will be sorely missed.

## LUNDY FOUNDATION'S WORK WITH VULNERABLE CHILDREN IN EAST AFRICA

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to commend the Lundy Foundation (Colorado) for its work, in partnership with Africa Bridge (Oregon), Godfrey's Children (Tanzania) and the Executive Council of Idweli (Tanzania), in building and operating a Children's Center in Idweli, Tanzania.

Idweli is similar to many rural villages in East Africa in that a significant portion of the population consists of children affected by HIV/AIDS. In fact, more than one-third of Idweli's children have been orphaned by HIV/AIDS. As their top priority, the children of Idweli identified building a children's center where orphaned and vulnerable children can feel loved and cared for. The Children's Center has now become a reality. The Center will provide temporary shelter for children infected or affected by HIV/AIDS, as well as provide adequate food, healthcare and primary education for orphans and other vulnerable children.

The Idweli Children's Center complex will consist of a small hall with a kitchen, dining room and a space for community gatherings, two dormitories that will provide housing for 48 children and four adults, two lavatories and space for recreation, health care, and education. There is also land available for cultivating vegetables and other crops. Skilled laborers in the village are building the Center by hand. All land used for this complex was donated to the Children's Center by the village of Idweli.

While $70,000 in private funds has been raised for construction and operation of the complex, $81,000 is still needed to complete the project. A matching grant of $35,000 has been pledged, if $50,000 can be raised from other sources. Additionally, grants have been submitted to the Tanzanian government and USAID for matching grants to cover ongoing costs of operating the Center.

The HIV/AIDS epidemic is particularly serious in Africa as millions of children and adults are living with the disease without adequate support or resources. I would like to commend British Airways and First Data Western Union Foundation for their support of the project and expression of social responsibility. It is vital that public and private funding from the United States continues in order to slow the spread of this epidemic in Africa, while ensuring those infected with the disease receive proper care.

I would like to praise the Lundy Foundation for its tremendous efforts in East Africa. It has not only financial resources to the project, but also project management and organizational development expertise. Through its work, the Lundy Foundation has been able to support the partnership in managing change, resolving conflict, and encouraging effective communication, as bridges are built between two different cultures.

The Lundy Foundation has achieved a great deal not only in East Africa, but throughout the African continent. I know that the Lundy Foundation will be successful as it continues in its quest to make the world a better place.

## THE ACCUTANE SAFETY AND RISK MANAGEMENT ACT

### HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to join with my colleague, Congressman BART STUPAK of Michigan, to introduce legislation that will help improve the safety and health of thousands of Americans who may be using the acne medication Accutane.

Accutane has been documented as causing severe birth defects and miscarriages in pregnant women using the drug, and its side effects can result in the onset of depression, psychosis, and even suicide. Four years ago, my colleague and friend Mr. STUPAK had to endure the tragic suicide of his teenage son, who was using Accutane at the time.

Despite the fact that the significant and serious side effects associated with Accutane are well known, the Food and Drug Administration has yet to mandate a program to better monitor the use of this drug and to document its effects in patients, despite the fact that such a registry has been recommended by FDA advisory panels on two separate occasions.

The Accutane Safety and Risk Management Act is common sense legislation that will build upon a safety plan first proposed by the makers of this drug themselves. It will still permit doctors to prescribe Accutane, but will also institute several additional patient safety and protection measures and ensure patients and their families know the full risks before beginning treatment.

Mr. Speaker, the legislation we propose will permit physicians to prescribe Accutane only

for "severe, recalcitrant nodular acne" that has been unresponsive to other forms of treatment. Severe acne is the condition for which Accutane was originally approved to treat. For patients with severe acne, Accutane may be the only medication that can successfully treat their affliction. But in far too many cases, Accutane is prescribed in an overly cavalier manner, and patients are being placed at risk to the drug's side effects for no medically valid reason. Many teenagers suffer from acne, and doctors and patients need to be cautious and not treat this drug lightly.

The legislation will also register all doctors, physicians, and pharmacists who prescribe and dispense the drug, and institute an education campaign to ensure these providers are well-informed about the potential risks associated with Accutane. All patients will also be educated and be required to receive similar information before starting treatment with Accutane and throughout the treatment regimen.

Prescriptions will only be written for 30 days and will not be permitted via the telephone, Internet, or mail. Female patients will also have to undergo a monthly pregnancy test before receiving a renewal on their prescription, and all patients will be required to take a monthly blood test.

The makers of the drug and all practitioners who dispense Accutane will also be required to file prompt reports with the Department of Health and Human Services anytime they learn of a negative reaction, including a death.

In closing, Mr. Speaker, let me just add that I commend my good friend BART STUPAK for having the courage and fortitude to turn a heartbreaking family tragedy into an effort to spare others from suffering a similar loss. I look forward to working with him to advance this important, common-sense health reform.

## TRIBUTE TO THE FINALISTS IN THE CHRISTOPHER COLUMBUS AWARDS

### HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Ms. BALDWIN. Mr. Speaker, I rise today to acknowledge four extraordinary young people and their teacher for becoming one of eight teams competing nationally as finalists in the Christopher Columbus Awards. The four students, Emily London, Renee Millar, Alexandra Macho, and Sara Weaver, are all eighth-graders who attend River Bluff Middle School in Stoughton, WI. Coaching the team is dedicated teacher Breinne Carroll. Through this team's efforts, they have discovered a way to change their community by using science and technology.

The students from River Bluff were concerned about blind pedestrians in their area and the risks that were involved when blind pedestrians crossed the street. The four students developed a raised strip that rests in the middle of crosswalks in order to help blind pedestrians walk in a safe manner from one side of a street to the other. The team calls their idea the "Uni-Bump."

The team has plans for the future as well. They have applied for a provisional patent, which will give the team a year to get a prototype designed and built before a "plant patent" can be granted. Also, a company based out of New Jersey, Trellborg Engineered Systems, has even offered to develop the first functional prototype for the team.

With imagination, teamwork, and the will to do kindly unto others, I am proud to say the team from River Bluff Middle School has not only made an impact on those in their own community, but will subsequently make a positive impact for others across the Nation.

## CONGRATULATING CALIFORNIA STATE UNIVERSITY FULLERTON TITANS BASEBALL TEAM ON 2004 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I COLLEGE WORLD SERIES

SPEECH OF

### HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, July 12, 2004*

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today as a strong supporter and co-sponsor of H. Res. 704—a bill to congratulate the California State University, Fullerton Titans baseball team for winning the 2004 National Collegiate Athletic Association Division I, College World Series.

Many of the Titans' student body live in my district, and they must be equally proud of the Orange and Blue.

The Titans' defeat of the Texas Longhorns, ranked No. 1 in the country, was just the latest victory in the school's history of overcoming the odds. The Titans have never had the resources of the great Big West teams, but they've made up for it in their spirit, drive and determination.

Special kudos go out to Coach George Horton for his third career award as Big West Coach of the Year, and to Kurt Suzuki and Jason Windsor for being named "All Americans."

Coach Horton and his team have set a high bar for future Titans baseball teams, but I'm sure that they will be up to the challenge, in the best tradition of Cal State Fullerton athletics.

## TRIBUTE TO THE CALLOWAY COUNTY LADY LAKERS

### HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. WHITFIELD. Mr. Speaker, I would like to acknowledge a group of high school students from my District congratulate them on winning the State of Kentucky Fast Pitch Softball Championship. The Calloway County Lady Lakers won their first state softball championship this year when they defeated Owensboro Catholic by the score of 3 to 2 on June 13th. This was only the second State Championship in the school's history.

I would first like to recognize the team, beginning with the coaches. They include Head Coach, James Pigg, and Assistant Coaches: Eddie Morris, Tom Fox, Troy Webb, Pat McMillen, and Cija Vaughn. Your hard work and dedication is admirable and greatly appreciated. Your team is celebrating this accomplishment today because of your efforts.

The players' teamwork and athletic abilities are also evident with this victory. The players are: Whitney Hendon, Kaysin Hutching, Traci Rose, Kalyn Fox, Aimee Dial, Ashley Chadwick, Chelsea Morris, Marcy Boggess, Danielle McMillen, Megan Starks, Carrie Radke, Jessica Greer, and Jessica Dial. Congratulations on this impressive athletic achievement. Your will and determination are obvious, especially since you were playing the championship game at 2:00 in the morning. This is a honor for your families, your team, your school, and the First District of Kentucky.

Congratulations Lady Lakers, and I wish you continued success in the future.

## A TRIBUTE TO THE HARRY AND DAVID COMPANY

### HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. WALDEN of Oregon. Mr. Speaker, I rise today to offer my heartfelt congratulations to a wonderful company whose roots are deeply immersed in the history of southern Oregon and our nation. Harry and David, a mail-order food-gift company located in Medford, Oregon, is celebrating its 70th anniversary, a milestone that speaks to America's enduring fondness for Harry and David products and services.

Well-known nationwide for their direct marketing of gourmet food and fruit gifts, the Harry and David Company is also known as a valuable member of the southern Oregon business community. Countless southern Oregon families have worked for Harry and David over the years and have helped shape their successful growth as a company.

Mr. Speaker, over the years the Harry and David Company has expanded from its initial gourmet gift fruit offerings to include fine chocolates and confections, as well as baked goods, meats, snack foods and home décor items. Today Harry and David ships more than 7.5 million gifts each year, including a staggering 4 million packages during the holiday season.

When you look back and consider the company's history, its accomplishments are even more impressive. After inheriting their father's Medford, Oregon, orchard in 1914, brothers Harry and David Holmes established a successful business shipping their signature fruit, the Royal Riviera Pear, to the grand hotels and restaurants of Europe. For 15 years, the brothers' business expanded as demand for their luxury fruit grew until the Great Depression impacted the market. Through extraordinary perseverance, the Holmes brothers pushed on and in 1934 built the foundation for the famously successful company we know today.

Mr. Speaker, Harry and David has truly grown to become one of the crown jewels of Oregon, and I am proud to offer my congratulations to the Harry and David Company on its 70th anniversary. Oregon is fortunate to host such a magnificent enterprise, and I am confident the next 70 years will bring the company continued success.

EXTREMELY HAZARDOUS MATERIALS TRANSPORTATION SECURITY ACT OF 2004

## HON. EDWARD J. MARKEY

OF MASSASCHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. MARKEY. Mr. Speaker, today I am introducing the ''Extremely Hazardous Materials Transportation Security Act of 2004'', a bill to improve safety within our system of transporting dangerous chemicals by rail, truck or other vehicle as part of daily commerce in the United States. The bill is cosponsored by Reps. MCCARTHY of Missouri, Rep. GRIJALVA of Arizona, Rep. CASE of Hawaii, Rep. OWENS of New York, Rep. LEE of California, Rep. TIERNEY of Massachusetts, and Reps. JACKSON-LEE and GONZALEZ of Texas.

The terrorist attacks of September 11, 2001, have led to significant changes in the level of attention paid to safety and to anti-terrorist measures in this country. Nevertheless, every day tank cars pass through our urban centers that carry enough chlorine to kill 100,000 people in half an hour. Although some of these shipments must travel the routes they are currently using, others could easily be safely rerouted.

We already know that these shipments are attractive terrorist targets. An Ohio-based Al Qaeda operative has already been arrested and pled guilty for plotting to collapse a bridge in New York City or derail a train in DC. And in April, just north of downtown Boston, a railroad tank car carrying 20,000 gallons of hydrochloric acid started to leak close to the Sullivan rapid transit station and just yards away from I–93, causing major chaos to the morning commute. Had that incident been a successful terrorist attack rather than an accident that harmed no one, many lives could have been lost.

The bill we are introducing today would require additional security measures for all shipments of extremely hazardous materials, and also calls for the re-routing of extremely hazardous materials shipments going through areas of concern if there is a safer route available, and if the shipment's origination or destination is not located within the area of concern.

Specifically, it would require:

physical security measures surrounding shipments of EHM such as extra security guards and surveillance technologies

pre-notification of EHM shipments for law enforcement authorities

coordination between Federal, State and local authorities to create a response plan for a terrorist attack on an EHM shipment

the use of currently available technologies to ensure effective and immediate communication between shippers of EHM, law enforcement authorities and first responders

re-routing of shipments of EHM that currently travel through areas of concern (as defined by the Secretary) only if there is a safer route available, and only if the shipment's origination or destination is not located within the area of concern

training for employees who work with EHM shipments

whistleblower protections for those disclosing violations of security rules or regulations

civil and administrative penalties for those who fail to comply with the regulations

I am attaching a letter of support for this bill from Chief Carter of the Massachusetts Bay Transportation Authority (MBTA) Police. While this letter addresses a particular hydrochloric acid spill that occurred April 14 in the Boston area, it is indicative of the difficulty and danger that extremely hazardous chemical shipments can pose to our first responder community wherever they live and work. It has also been endorsed by Greenpeace, Clean Water Action, Friends of the Earth, National Environmental Trust, the Public Interest Research Group, and 14 chemical companies.

I urge my colleagues to join me in seeking to upgrade our defenses in this area so that none of our constituents are ever exposed to a catastrophic chemical release simply because we failed to take these simple steps.

MBTA POLICE,

*Boston, MA, July 12, 2004.*

Re H.R. _____, *A Bill to Direct the Secretary of Homeland Security to Issue Ragulations Concerning the Shipping of Hazardous Material Within, Through, or Near Regions Designated by the Secretary as Areas of Concern*

Hon. EDWARD MARKEY,

*House of Representatives, Rayburn House Office Bldg., Washington, DC.*

DEAR CONGRESSMAN MARKEY: Thank you for inviting me to review and comment upon the proposed H.R. _____ which would direct the Secretary of Homeland Security to draft regulations concerning transportation of hazardous materials through or near geographic areas of concern. I offer my full support for the bill.

The proposed bill provides a critical framework to strengthen the security of the now extremely vulnerable hazardous material shipment process. Its passage would create reasonable regulation over who is transporting dangerous shipments. how they are transported, and where they are allowed to travel. This bill is but one part of a larger, ever developing process of securing the safety of our citizens and protecting our municipalities.

Public mass transit and cargo transport are the most critical systems of commerce in the United States of America. In Boston, Massachusetts alone, every day, over six hundred thousand persons utilize the Massachusetts Bay Transportation Authority's (MBTA) system of buses, subways, commuter rail, water shuttles, and para transit services. Each of those persons, and many who do not use mass transit, live, work and travel in close proximity to modalities which constitute hazardous material transport in the form of freight trains, rail tankers, tractor trailers, and harbor bound ships. Each of those forms of transport poses a unique and disturbing challenge to public safety agencies in preventing either an accidental or intentional discharge of dangerous cargo into the local environment.

For example, on April 14, 2004, a railroad tanker car carrying twenty thousand (20,000) gallons of hydrochloric acid developed a leak while passing quite literally within yards of the Sullivan Square MBTA subway station. This accident required the immediate response of virtually the entire resources of the MBTA Police Department's working officers to monitor pedestrian and vehicle traffic in and around the station. Also, the resources of the Boston Police Department, Fire Department, and Emergency Medical Services were put to the test in managing traffic, containing the leak, off-loading the remaining cargo, and identifying persons who may have been injured by exposure. For virtually the entire day, the transit infrastructure and most critical city services were critically impeded. Perhaps the most troubling part of that incident is that every day similar cargo is transported on the same rail cargo line, immediately adjacent to commuter rail lines and roadways with no regulation or prior warning of the potential hazard.

Amazingly, no one was injured or killed as a result of the April 14 leak, but the incident pointed to a threat to the safety and lives of our citizens. Every day, across our nation, local residents are exposed to potential harm by passage through their communities of unknown and unregulateq cargo, chemicals, and hazardous materials. Mass transit modalities share rail lines with dangerous cargo trains; highways and urban centers routinely see cargo trucks and tankers alongside cars, school buses, and public buildings; and working harbors, like Boston and New York, receive huge tankers of liquefied natural gas or similarly volatile cargo. There is, however, no framework to uniformly identify and secure the extremely vulnerable hazardous material shipment process.

In the shadow of the events of September 11, 2001, we in the law enforcement professions have had to refocus our efforts from crime prevention to include identification of weaknesses in local infrastructure that lends itself to either accidental or intentional harm. Part of the difficulty is that we are hardly ever forewarned, nor do we have the authority to control the hazardous substances that travel though our communities.

In closing, thank you for inviting my comments on this important issue. Please be assured of my continued support for your efforts on behalf of the Commonwealth of Massachusetts and the United States of America.

Sincerely,

JOSEPH C. CARTER, *Chief.*

PERSONAL EXPLANATION

## HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. OXLEY. Mr. Speaker, I was unavoidably absent from the floor during rollcall votes 360 (Hefley amendment to H.R. 4755), 361 (Sherman motion to recommit H.R. 4755), and 362 (H.R. 4755 final passage), taken last night. Had I been present, I would have voted ''no'' on rollcall votes 360 and 361 and ''aye'' on rollcall vote 362.

PERSONAL EXPLANATION

## HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. MOORE. Mr. Speaker, on July 12, 2004, my flight was delayed due to inclement weather causing me to miss rollcall vote Nos. 359 and 360, the Holt and Hefley amendments to the legislative branch appropriations bill, H.R. 4755. The Holt amendment would increase funding for the General Accounting Office (GAO) to establish a Center for Science and Technology Assessment within the GAO. The Hefley amendment would reduce all of the discretionary appropriations in the bill by 1 percent. Had I been present, I would have voted ''yea'' on the Holt amendment and ''nay''

on the Hefley amendment. Please let the record reflect how I would have voted.

## TRIBUTE TO MSGT BENJAMIN R. McCLELLAN

### HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. SKELTON. Mr. Speaker, let me take this opportunity to pay tribute to Master Sergeant Benjamin R. McClellan upon his retirement from the United States Air Force.

MSGT McClellan has served our Nation with honor and distinction for over 20 years, and his performance throughout his career has been characterized by the highest standards of professional ethics and commitment. He entered into the United States Air Force in December of 1983, and attended his basic training at Lackland Air Force Base, TX. He has served our country in many capacities through the years but has finished his career as the NCOIC of Wing Protocol for the 509th Bomb Wing at Whiteman Air Force Base, MO.

MSGT Benjamin McClellan graduated summa cum laude from Friends University in Wichita, KS, with a Bachelor of Science Degree in Organizational Management and Leadership. He is currently completing his Masters of Business Administration from the University of Phoenix, Kansas City, MO.

MSGT McClellan's awards include the Air Force Meritorious Medal with one oak leaf cluster, the Air Force Commendation Medal with two oak leaf clusters, the Air Force Achievement Medal with three oak leaf clusters, the Good Conduct Medal with five oak leaf clusters, the Military Outstanding Volunteer Service Medal, and the National Defense Service Medal.

Mr. Speaker, I am certain that my colleagues will join me in wishing MSGT McClellan all the best. We thank him for over 20 years of service to the United States of America.

## IN RECOGNITION OF THE 100TH ANNIVERSARY OF THE GRUNDY COUNTY AGRICULTURAL DISTRICT FAIR

### HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. WELLER. Mr. Speaker, I rise to recognize both the 100th anniversary of the Grundy County Agricultural District Fair held each year near Morris, Illinois as well as the local agriculture community which has so strongly supported the Fair over the decades.

Founded in 1904 in the Village of Mazon, Illinois on the southern end of Grundy County, the Fair originally featured horse shows, baseball games and dinners served by the Mazon Congregational Church.

The Fair grew rapidly in popularity and soon became the center of entertainment for everyone in Grundy County with horse races, livestock shows, good food, dancing, talent shows and many types of plain, wholesome family fun.

As the years went by, automobile racing gradually supplanted the traditional horse races, especially with the advent of Midget auto racing which became very popular during the late 1930's and continues to this day. Auto race tracks grew larger and replaced horse racing tracks. Eventually, the Fair outgrew its Mazon, Illinois site and moved to its present location north of the City of Morris, Illinois where the Grundy County Speedway, a one-third mile paved oval track became part of the fairgrounds.

A century later, along with the auto racing, the Grundy County Agricultural District Fair still retains its agriculture and family oriented emphasis. Beef and dairy cattle, sheep, swine, rabbits and poultry along with field crops, fruit and vegetables still combine with country music, carnival rides and even the Miss Grundy County Fair Pageant to provide outstanding family entertainment.

In closing, Mr. Speaker, let me pay tribute to the generations of farm families, hard-working Fair Department Superintendents, dedicated County Fair Board members and outstanding volunteers who have built and nourished the Grundy County Agricultural District Fair through the past century. Their commitment has truly provided the Grundy County community with a century of wonderful family entertainment.

## PAYING TRIBUTE TO GORDON HILL

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. McINNIS. Mr. Speaker, I solemnly rise today to pay tribute to the life and memory of Gordon Hill of Glenwood Springs, Colorado. Recently, Gordon passed away at the age of eighty-seven. He will be remembered for his dedication and service to our country as an officer during World War II, and as an employee at the Bureau of Reclamation. As his family and friends mourn his passing I would like to recognize his life and accomplishments before this body of Congress and this nation today.

Gordon was born and spent much of his childhood in cities along Colorado's Front Range. After receiving a civil and irrigation engineering degree from Colorado A&M College, he went to work for the Tennessee Valley Authority. During the Second World War, he bravely answered his nation's call to serve and joined the United States Navy as an officer in the Civil Engineering Corps where he served in the Pacific Theatre. After the war, Gordon remained in the military as a member of the reserve corps.

After the war, Gordon began his work for the United States Bureau of Reclamation until his retirement in 1973. During his years at the Bureau, he held positions as a project planner, a construction supervisor and contract administrator. Working and living in several different towns throughout Colorado, Gordon provided leadership on the Colorado-Big Thompson dam and Ruedi dam projects. Gordon had a very large and loving family including several children, numerous grandchildren and great-grandchildren. Upon his retirement, he moved to Glenwood Springs, which provided opportunity to be close to much of his family and a nice environment for him to pursue his seasonal outdoor activities. These hobbies included: golf, hunting, skiing, gardening, fishing and swimming.

Mr. Speaker, I am privileged to share with you the legacy of Gordon Hill. His love for his family, his country, and the outdoors were all apparent, in his life and his deeds. He was a dedicated servant toward the betterment of this nation, and I ask my colleagues to join me in sending my condolences to Gordon's family and friends.

## HONORING SANDRA FELDMAN ON HER RETIREMENT FROM THE AMERICAN FEDERATION OF TEACHERS

### HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. GEORGE MILLER of California. Mr. Speaker, today I am introducing a resolution honoring Ms. Sandra Feldman upon her retirement from the presidency of the American Federation of Teachers (AFT). She is stepping down from this position at the AFT's annual convention later this week. Ms. Feldman has been a tireless advocate for improving the quality of teaching in our schools.

Ms. Feldman was born in New York City and is a product of its public schools. She is a former 2nd and 3rd grade teacher at PS 34 in Manhattan. She began her career advocating for children and better learning outcomes during the 1960's civil rights movement. Ms. Feldman was elected to the presidency of the United Federation of Teachers, the New York City affiliate of the AFT, in 1986. She subsequently was elected to the presidency of the AFT in 1997.

Ms. Feldman has brought this diverse background and her valuable experiences together to be a force for education reform. Ms. Feldman's leadership at both the UFT and AFT helped define national education reform efforts as they developed and grew in the 1980s and 1990s. Her work helped shape the standards movement and brought accountability for results back to education.

Ms. Feldman is probably best identified as being a stalwart champion of increased teacher quality. Better than anyone, Ms. Feldman knows the importance of a highly qualified teacher, especially for the most disadvantaged children. While improving the working conditions and benefits of her membership, she also asked for better results and higher qualifications. A well qualified teacher is the most important element in a successful learning experience. Sandra Feldman's leadership at AFT has only reinforced this important fact.

Despite her retirement, I am confident that her services will continue to be sought after on numerous panels and task forces to improve educational outcomes. Very simply, her service to both her membership and the children of America has been immeasurable.

The resolution I am introducing today honors Sandra Feldman on her retirement from the presidency of AFT. Despite her leaving this position, I am confident that her expertise and skill will continue to positively impact teaching and learning for years to come.

## PAYING TRIBUTE TO EIGHTH STREET MISSIONARY BAPTIST CHURCH

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. MCINNIS. Mr. Speaker, I rise today to pay tribute to the Eighth Street Missionary Baptist Church in Pueblo, Colorado. For many years, the church has been spiritually uniting members of the Pueblo community, and I am privileged to join my colleagues in recognizing its positive impact on the community before this body of Congress and this nation today.

The Eighth Street Missionary Baptist Church has been a place of worship and friendship for members of Pueblo for well over a century. The church's roots can be traced back into the 1870's, but the exact date of its inception is unknown as a result of a flood destroying the documentation. Many early members of the congregation can be identified as freed slaves, relocating in Pueblo to establish a new life with new opportunities. Now, many members of the community find comfort in the Eighth Street Missionary Baptist Church. Recently, the church announced plans for a new building to house the church to better serve its members.

Mr. Speaker, the Eighth Street Missionary Baptist Church remains an important part of the lives for many community members. The church has a century old record of bringing people together and creating a strong community. I thank the leadership and the members of Eighth Street Missionary Baptist Church for their service to the community, and wish them all the best in their future endeavors.

## PERSONAL EXPLANATION

### HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. OWENS. Mr. Speaker, because of an emergency in my district, I missed rollcall votes Nos. 359, 360, 361 and 362. If present I would have voted ''yea'' on rollcall votes 359, 361 and 362 and ''nay'' on rollcall vote 360.

## PAYING TRIBUTE TO JOHN WILLIAM SOMRAK

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I rise to pay tribute to the life and memory of John William Somrak of Gunnison, Colorado. ''Johnny,'' as he was affectionately known, recently passed away, and he will be remembered as a pillar of his community. As his family and community mourn his passing, I would like to take this opportunity to recognize his life before this body of Congress and this nation.

Johnny was born and raised in Crested Butte, Colorado. After losing his father at a young age, he went to work for Colorado Fuel and Iron's Big Mine when he turned seventeen to help support his family. This responsibility taught him a strong work ethic early in his life. Harry's personal loss of his father to a mining accident inspired him to become active in workplace safety at the mine, and join a team to compete in Colorado's Industrial First Aid and Accident Prevention competitions. When the coalmines closed he went on to work as a Forest Service technician, a job that required him to be a man of many talents. He did everything from providing the necessary maintenance of campgrounds to acting as a supervisor for the summer work crews.

A devoted family man, Johnny was married to Frances Starkovich, for over fifty years. In his free time, he enjoyed dancing with his wife and cultivating flowers in his garden. In addition to those passions, his love for skiing kept him active throughout the winter.

Mr. Speaker, the Gunnison community will sorely miss John Somrak. He will be remembered as a dedicated worker and committed family man. I wish to express my deepest condolences to Johnny's family and friends in this difficult time of bereavement.

## HONORING THE JOHN MERLO SPORTS PROGRAM

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. EMANUEL. Mr. Speaker, it is my privilege today to recognize the contributions of the John Merlo Sports Program for its tireless efforts in providing sports programs and other activities for children and senior citizens in the Lakeview Neighborhood of Chicago, on the occasion of its 23rd Annual Awards Dinner

The annual Sports Program Dinner, hosted again at Chicago's own Wrigley Field, is an opportunity to recognize both the great work the Sports Program has accomplished in the past year, as well as the achievements of so many members of our community who help make Lakeview one of the best neighborhoods in the City of Chicago. This year, I am pleased to congratulate Senator Emil Jones, Andy McPhail, and Paula and Peter Fasseas on being recognized for their unwavering commitment to Chicago.

The John Merlo Sports Program has consistently demonstrated its commitment to providing the Lakeview community with a variety of excellent athletic programs as well as funding for the renovations of Chicago Park District Playlots. Its fundraisers, programs, and honorees, are an integral part of the success of the program, and I thank everyone in attendance for their assistance and dedication to this outstanding program.

Founded in 1981, the John Merlo Sports Program is a charitable organization named after the late John Merlo, a beloved former Alderman, State Representative, State Senator and Democratic Committeeman, who represented the Lakeview community for nearly 30 years. Mr. Merlo, a staunch advocate for the benefits of participating in sports, felt good sportsmanship, and the ability to interact with others were important skills that everyone should possess.

This year's awards are led by the Civic Leader of the Year, Senate President Emil Jones, Jr. Senator Jones has been serving the people of Illinois as a state legislator for more than 30 years. Throughout his career, he has been a dedicated supporter of education and the disadvantaged. A life long resident of Chicago, Senator Jones has provided a passionate voice for Chicagoans as the leader of the Illinois State Senate.

President and Chief Executive Officer of the Chicago Cubs, Andy MacPhail has a long connection with the Lakeview Neighborhood, first working for the Cubs in 1977. As one of the most successful executives in Major League Baseball, Mr. McPhail has also worked for the Houston Astros and the Minnesota Twins, a team that won two World Championships while he was at the helm. Under Mr. McPhail's management, the Cubs were the National League Central Division Champions last year, and are again fighting for the pennant. Accordingly, I applaud the selection of Mr. McPhail as Business Leader of the year.

Last, but not least, I congratulate Paula and Peter Fasseas on being selected as the Business Leaders of the Year. Metropolitan Bank Group Chairman and Chief Executive Officer Peter Fasseas and Vice Chairman Paula Fasseas have been involved in all facets of the Lakeview community since purchasing North Community Bank in 1978. The number of civic organizations that have been touched by the Fasseas is too numerous to mention, but I am particularly proud of their work with Pets Are Worth Saving (PAWS), the non-profit organization founded by Mr. and Mrs. Fasseas in 1998 dedicated to encouraging pet adoption.

Mr. Speaker, I applaud the leadership of The John Merlo Sports Program, its founder Bernie Hansen, and current President Mike Quigley on the incredible work they are doing for Chicago's youth and seniors. I would also like to commend the tremendous leaders being honored this year, and wish the program continued success in the future.

## PAYING TRIBUTE TO KAREN GREEN

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. MCINNIS. Mr. Speaker, I rise today to pay tribute to Karen Green, of Aspen, Colorado. Karen is a talented teacher that motivates students to study our nation's history. Her dedication to learning inspires students in many ways, and I am privileged to acknowledge her before this body of Congress and this nation today.

Karen has been an educator for twenty-two years and has also taught in Glenwood Springs, and Cherry Creek in Denver. This year Karen was the only Colorado educator to be awarded the inaugural Preserve America History Teacher of the Year Award. The newly established national award program was created by first lady Laura Bush and is co-sponsored by the Preserve America Foundation and Gilder Lehrman Institute of American History. In addition to her award Karen was also complimented with a one thousand dollar donation to the High School, 20 history books, multimedia, copies of primary documents and some meaningful works of literature and philosophy in original form.

Karen is obviously a phenomenal teacher as this is not the only award that she has received. Last year she was awarded the Most Inspirational Teacher Award and a ten thousand dollar donation from the Basalt community where she used to teach from 1993 to 2003. Most recently, she qualified for a weeklong seminar at Stanford University with Pulitzer-Prize winning historian David Kennedy. She was one of only thirty teachers invited.

Mr. Speaker, Karen Green has devoted her career to expanding the minds of Colorado students and her colleagues. She is a dedicated teacher who demonstrates a strong passion for learning and I am honored to recognize her accomplishments before this distinguished body of Congress and this nation today. Congratulations on your award Karen, and thank you for your many years of service.

## PUNJAB GOVERNMENT CANCELS DEAL THAT ALLOWED DIVERSION OF WATER TO OTHER STATES; LEGISLATURE ASSERTS SOVEREIGNTY

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. TOWNS. Mr. Speaker, the Legislative Assembly of Punjab recently annulled a longstanding agreement that allowed the diversion of water from Punjab to other states.

According to the Tribune of Chandigarh, whose article I will be inserting in the RECORD at the end of my remarks, the Legislative Assembly asserted the sovereignty of Punjab in doing so. The newspaper reports that the bill passed by the Legislative Assembly says that ''as a sovereign authority [Punjab] considered it its duty to uphold the Constitution and the laws and to protect the interests of its inhabitants.''

Apparently, all parties supported this measure. We congratulate them on taking this step forward to protect the interests of the people of Punjab. I urge them to continue claiming, promoting, and establishing the sovereignty of Punjab.

Mr. Speaker, we know that the people of Punjab have been severely oppressed by the tyrannical Indian government. Over a quarter of a million Sikhs have been killed since 1984, according to the Punjab State Magistracy. The Movement Against State Repression reports that 52,268 have been taken as political prisoners, held without charge or trial, some as long as 20 years. According to the Punjab Human Rights Commission, about 50,000 Sikhs have simply been made to disappear by being arrested, tortured, killed in police custody, declared ''unidentified bodies,'' and secretly cremated, without their remains even being given back to their families.

Similar repression has been visited on Christians, Muslims, and other minorities. Yet India continues to say that it is the world's largest democracy.

If India is truly a democracy, it will allow the will of the people to be carried out in regards to the diversion of water. It will allow the people—Sikhs, Christians, Muslims, Assamese, Bodos, Dalits, Manipuris, Tamils, and everyone living under Indian rule—to enjoy the full range of human rights. And it will allow self-determination for these sovereign states.

Until that happens, Mr. Speaker, we should not provide any aid to India. And we should take a stand for self-determination, which is the cornerstone of democracy, by supporting a free and fair plebiscite on independence in Punjab, Khalistan, in Kashmir, in predominantly Christian Nagaland, and everywhere that people seek their freedom from Indian rule. The assertion of sovereignty by the Punjab Legislative Assembly is a good first step. They should act to claim their sovereignty by severing their ties to India. We should take a stand by letting them know that when they do, we will be there with them.

Mr. Speaker, as I mentioned before, I would like to insert the Tribune article into the RECORD.

[From the Tribune (Chandigarh), July 13, 2004]

PUNJAB ANNULS ALL WATER PACTS: CONG, AKALIS JOIN HANDS ON ISSUE

(By P.P.S. Gill)

CHANDIGARH, July 12.—A special session of the Punjab Vidhan Sabha today unanimously passed the Punjab Termination of Agreements Bill, 2004, thereby ''knocking down'' the very basis on which the Supreme Court had passed its order on construction of SYL—Sutlej-Yamuna Link canal on June 4, last. This Bill annuls the December 31, 1981, agreement between Punjab, Haryana and Rajasthan signed by the three Chief Ministers in the presence of the late Ms Indira Gandhi and also all other agreements relating to the water of the rivers, Ravi and Beas. This, the Bill says, was done in ''public interest''. The annulment has come after 23 long years with two staunch political rivals, the Congress and the Akalis, joining hands to protect the state's riparian rights. Immediately after the Bill was passed, the Chief Minister, Capt Amarinder Singh, accompanied by the Leader of the Opposition, Mr Parkash Singh Badal, PPCC president, Mr H.S. Hanspal, Ms Rajinder Kaur Bhattal, Mr Partap Singh Bajwa and a team of legal experts went to Raj Bhavan to meet the Governor, Justice O.P. Verma (retd.), to request him to give his assent to the Bill, as the dead-line for compliance with the Supreme Court order was July 15. The combined delegation spent an hour with the Governor. The Raj Bhavan sources said, ''The Bill is being examined.''

Capt Amarinder Singh told TNS that he had not discussed the Bill with Ms Sonia Gandhi. ''Why involve her? When I go to Delhi, I shall brief her''.

Presenting the Bill to the House, Capt. Amarinder Singh made an emotive speech giving facts, figures and background to the entire issue of sharing of river waters and steps taken in the recent past to protect and safeguard the interests of Punjab, particularly the farmers and save nine lakh acres going dry and barren, which would affect the livelihood of 1.5 million families.

The Bill says that Punjab was proud of its position in the Indian union, felt equal concern for its neighbours and as a sovereign authority also considered it its duty to uphold the constitution and the laws and to protect the interests of its inhabitants.

Under the 1981 agreement, flow series were changed from 1921–45 to 1921–60, which had the result of increasing the availability of Ravi-Beas waters from 15.85 MAF to 17.17 MAF. The allocation of water made to the states concerned under that Agreement was as under:

Haryana (non-riparian) 3.50 MAF, Rajasthan (non-riparian) 8.60 MAF, Delhi (non-riparian) 0.20 MAF, Punjab (riparian) 4.22 MAF and Jammu and Kashmir (riparian) 0.65 MAF. Under clause IV of this agreement, Punjab and Haryana withdrew their respective suits from the Supreme Court. But the controversy rages on. The issue has become emotive.

Referring to the broad clauses of the proposed Bill, Capt Amarinder Singh maintained that riparian and basin principles were ignored all along and allocation of the Ravi-Beas waters had always been affected by ''ad hoc decisions and agreements, dictated by prevalent circumstances''. Here was a typical case involving ''emotive'' issue of impending transfer of water from ''deficit'' Ravi-Beas basin to the ''surplus'' Yamuna basin.

Never any reliable and scientific study of hydrological, ecological and sociological impact of such large scale trans-basin diversion from Punjab to Haryana and Rajasthan had been undertaken. Besides this transfer, diversion was even contrary to the National Water Policy guidelines, he added.

Capt Amarinder Singh pointed out, ''Non-riparian and non-basin states of Haryana and Rajasthan are not only not entitled to any Ravi-Beas waters, even their current allocation and utilisation is totally disproportionate to the areas alleged to be falling in the Indus basin. Therefore, Punjab, as a good neighbour, has accepted such utilisations by Haryana and Rajasthan as 'usages by sufferance' but not as a matter of any recognition of their rights''.

He supported this hypothesis, when he posed the question, ''Does Punjab have surplus water and do the claimants of our water a legal right to it?'' Then, he paused for effect, ''The answer to this question is a resounding 'no'''', and went on to give the following picture:

All three rivers, the Ravi, the Beas and the Sutlej, flow through the present Punjab and none through either Haryana or Rajasthan. No part of territories of these states fall within the basin areas of the Ravi and the Beas, although, according to un-substantiated report of the Irrigation Commission, only 9,939 sq. kms. within Haryana fall in Indus basin, against 50,305 sq. kms. of Punjab.

Again, the present utilisation by Haryana was about 5.95 MAF, about 4.33 MAF from Sutlej and about 1.62 MAF from the Ravi-Beas water, through the existing systems. Also out of 17.17 MAF of ''surplus'' Ravi-Beas water, only 4.22 MAF was allocated to Punjab, a riparian state, against higher quantities to Haryana and Rajasthan. From the total surplus availability of 11.98 MAF of the Beas water, Punjab has been allocated 2.64 MAF.

Therefore, justifying the annulling of the December 31, 1981, agreement and all other agreements relating to the Ravi and the Beas, the Bill seeks to present the fact that ground realities have since undergone a sea change from that date and Punjab settlement of July 24, 1985, under the Rajiv-Longowal Agreement. Therefore, this had made the implementation of that 1981 agreement ''onerous and injurious'' to the public interest.

The availability of the Ravi-Beas water, 1717 MAF, as on December 31, 1981, has been reduced to 14.37 MAF, as per the flow series of 1981–2002. Haryana has been given 4.65 MA under the Yamuna agreement of May 12, 1994, which will be further augmented by the Sarda-Yamuna link. In the meanwhile, irrigation requirements have increased in Punjab. ''The Punjab settlement, except one para 9, relating to allocation of the Ravi-Beas water, has remained unimplemented in letter and spirit, to date.''

In these circumstances, the terms of 1981 agreement were ''onerous, unfair, un-reasonable and contrary to the interests of the inhabitants of the Ravi-Beas basin, who have law-full rights to utilise water of these rivers''. Is the Bill justified? Will it tantamount to contempt of the court? In his well prepared speech, Capt. Amarinder Singh has addressed such questions, as well.

Armed with the House resolution of June 15 that aims to protect the rights of Punjab, legal opinions and all-party resolution of June 12, the Chief Minister said.

''This mandate enables the government to find ways and means to protect the people from adverse consequences of the Supreme Court judgment of June 4. The state had been advised that the obligations arising from an agreement or the contract did not fetter the powers of the legislature to enact a law in public interest.

''We have been further advised that it is a well settled law that the legislature is competent remove or take away the basis of judgment by law and thereby it does not encroach upon the exercise of the judicial power of the judiciary and the legislative action within its competence, do not commit a contempt of court. However, final decision in all these matters lies in the court, as any law enacted by this august House is subject to a judicial review''.

When the Bill had been introduced, Mr Parkash Singh Badal stood up to express the collective anguish of the opposition that on such an important item, involving the question of ''life and death'' had been treated lightly by the government and till noon today ''we had no idea of what the agenda was all about nor we had received copy of the Bill or what it was all about''.

Mr Badal said the traditions and conventions of the House were being eroded, day-by-day. ''It was also a disgrace that even the information inviting us to meet the Governor after the House had passed the resolution was sent by the Congress president, Mr H S Hanspal, who was not involved in this in any which way. How can we discuss anything at such a short notice? We are against political confrontation and are available 24–hours for any thing related to the interests of the state and are willing to support the government''.

Thereafter, the Speaker, Dr Kewal Krishan said he had received a resolution sent by four Akali MLAs, Mr Parkash Singh Badal, Capt. Kanwaljit Singh, Mr Gurdev Singh Badal and Mr Manpreet Singh Badal, for the consideration of the House.

Then, he ruled that since a comprehensive Bill was being presented, they could express their views while speaking on that. Mr Manpreet Singh Badal and Capt Kanwaljit Singh suggested that certain provisions, including Clause 78, in the Punjab Reorganisation Act, 1966, be also annulled. BJP's Tikshan Sud, said though a ''belated step'', the Bill was a welcome and offered full co-operation but rued that the Opposition be given due place and respect.

On this the Captain had stated in his reply that whatever steps were required to be taken to protect Punjab's interests would be taken in consultation with the legal experts.

The speakers, including Mr Bir Devinder Singh and Mr Jeet Mohinder Singh spoke in the context of historical background, stressing time and again on the riparian principles. Mr Bir Devinder Singh recalled how even the British Government had sought a certificate from Punjab that it will protect its own interests under the riparian rights while selling water to Rajasthan.

Mr Bir Devinder Singh even cautioned to be prepared following the enactment of the Act, terminating 1981 and other agreements since new situation would develop. Mr Jeet Mohinder Singh wondered if the Bill would stop the construction of SYL. He was for adding a new amendment in the form of a clause in the Eastern Punjab Canal and Drains Act, 1873 that permission of the state Assembly should be mandatory to dig or construct any canal that carries water beyond the boundaries of the state.

RARE BONHOMIE IN HOUSE

The discussion on the Bill was, however, not without the usual political punches and colour. There were moments when some ministers and opposition members took pot shots blaming either side for having failed Punjab and messed up the water issue.

Some Opposition members said had such a Bill been brought forward 23 years ago, Punjab would have been spared the agony. Even the Bill says that in the wake of large-scale militancy, the Punjab settlement was reached, which however, had remained unimplemented in letter and spirit.

For once, the House was in a serious mood. There were no political skirmishes, though usual jibes were heard. The Governor's and Speaker's galleries were packed.

But it was the Captain's day all the way. Having worked overtime to get this Bill prepared, presented and passed by the House, he responded to the collective anguish of the opposition, expressed by Mr Badal, with utmost humility and courtesy, acknowledging all what Mr Badal had said. But then he point by point not only explained the unusual circumstances, including race against time, under which the Bill in as prepared and thus could not be circulated earlier, giving the members a chance to prepare themselves.

Capt. Amarinder Singh was apologetic and said so repeatedly taking the wind out of the sails of the Akalis. He showed faint starchiness in his voice, when he responded to some of the observations of Capt. Kanwaljit Singh, saying, ''We are together here for an important task, not for rhetoric and emotive outbursts. We cannot allow Punjab to go back into the grip of violence''.

Warming up, he concluded, ''We will resort to all legal and constitutional means to seek justice. Already enough bloodshed has taken place. Even all the bodies have not been counted, so far. We shall fight to the end but within the parameters of laws, rules and the constitution. I will be willing to resign, if need be, for the sake of Punjab. The time is not for blame game. We have all made mistakes in the past. We are rectifying the same after 23 years. Come, lets join hands, close ranks. I appreciate the Opposition's co-operation''.

## PAYING TRIBUTE TO CONNIE FLUKEY

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. MCINNIS. Mr. Speaker, I rise today to pay tribute to Connie Flukey, of Grand Junction, Colorado, who has committed herself to a lifetime of volunteer service. Connie is a caring individual who inspires citizens to follow in her benevolent steps. She is a valuable member of her community and it is an honor to recognize her service before this body of Congress and this nation.

In recognition of her service, Connie was recently honored by the White House with the President's Call to Service Award for more than four thousand hours of volunteer service and also by the Points of Light Foundation for serving more than five hundred hours in one year. Only one thousand people in the entire country are expected to receive such a prestigious award this year. The President's Council on Service and Civic Participation created the award program to recognize Americans whose example of dedication inspires others to volunteer. Connie definitely fits the mold as she was instrumental in the founding of an organization that helps to coordinate searches for missing children across the country including involvement in the high profile Elizabeth Smart case.

Mr. Speaker Connie Flukey is a dedicated public servant that goes above and beyond the call of duty to serve her community and her nation. I am proud to acknowledge the achievements of a person who encourages her fellow Americans to volunteer and help out in their towns and cities. It is the efforts of people like Connie that help build strong and caring communities. Thank you for your service Connie and I wish you all the best in your future endeavors.

## THE INTRODUCTION OF THE ''CONTINUITY OF OPERATIONS DEMONSTRATION PROJECT ACT''

### HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. DAVIS of Illinois. Mr. Speaker, in the late 1990s, the Government Reform and Education and Workforce Committees, held oversight hearings to examine the barriers to telecommuting and federal agencies' development and promotion of telework programs. It was then thought that the primary benefits of telecommuting were reducing traffic congestion and pollution, improving recruitment and retention of employees, reducing the need for office space, increasing productivity, and improving the quality-of-life and morale of federal employees.

These continue to be compelling and valid reasons for implementing agencywide telework programs. Representative FRANK WOLF is to be commended for moving legislation that pushes agencies to increase the number of federal employees who telecommute.

Today, post 9–11, we are again holding hearings on telecommuting. We have another, very compelling reason to push federal agencies, and ourselves, to develop and implement the infrastructure and work processes necessary to support telecommuting. They are emergency preparedness and the continued threat of terrorism.

The question we must ask ourselves is this: In the event of an emergency, are we—this Committee, our staffs, and federal agencies—prepared to serve the American people, if in an emergency situation, our primary places of work are no longer available to us?

You only have to read the General Accounting Office's (GAO) April 2004 report entitled, ''Human Capital: Opportunities to Improve Federal Continuity Planning Guidance,'' to know that the answer is no.

The GAO report notes that the government is better prepared to handle an emergency than it was before 9–11, but there is room for improvement. Federal agencies' continuity of

operations plans (COOP) address securing the safety of all employees and responding to the needs of personnel performing essential operations, but essential personnel make up only a small portion of the total federal workforce.

Neither the Office of Personnel Management (OPM) nor the Federal Emergency Management Agency (FEMA), the agencies responsible for providing emergency preparedness guidance in COOP, have addressed workforce considerations related to the resumption of broader agency operations. While COOP efforts should give priority to the safety of all employees and address the needs of those who directly support essential operations, the resumption all other operations is crucial to achieving mission results and serving the American people.

The GAO report states that, "Given that the majority of employees would be associated with resumption efforts rather than essential operations, considering this segment of the organization is an important part of continuity planning." According to GAO, continuity efforts should be guided by two key workforce principles: the demonstration of sensitivity to individual employee needs and the maximization of all employees contributions to mission results.

I introduced H.R. 4797 to push agencies to do just that. The legislation would require the Chief Human Capital Officer Council to conduct and evaluate a 30-day demonstration project that broadly uses employees' contributions to an agency's operations from alternate work locations, including home. The outcome of the demonstration project would provide agencies and Congress with approaches to gaining flexibility and identifying work processes that should be addressed during an extended emergency situation.

This Congress experienced a prolonged emergency situation when, in 2001, congressional office buildings were closed from 2 weeks to 3 months due to the threat of anthrax contamination. Congressional staff stayed home, or they were hastily relocated to nearby federal office buildings. A Congressional Research Report on congressional continuity of operations stated that although alternate office accommodations were in place, office computer and hard copy files in the closed offices, in many cases, were inaccessible.

The number and types of potential emergency interruptions are unknown and we must be prepared, in advance of an incident, with the work processes and infrastructure needed to reestablish agency operations.

In a world where anything is possible, we must be prepared for all the possibilities.

ACT APPLAUDS EFFORTS TO ENSURE CONTINUITY OF FEDERAL OPERATIONS THROUGH TELEWORKING

The Association for Commuter Transportation applauds Congressman Danny Davis (D–IL) in his effort to ensure continuity of Federal operations in the event of an emergency, natural or manmade, by making effective use of telecommuting. The legislation introduced today by Congressman Davis will show that establishing effective telework programs for the Federal Workforce will allow for continuity of federal operations in the event of an emergency.

The events of September 11th showed us that the Federal government needs to be better prepared to operate in the event of an emergency. However, an act of terror is not the only event that prevents the federal government from operating effectively. Recent events such as the anthrax incident, the tractor incident, numerous weather related events, and the events surrounding the passing of former President Reagan have all but shut down the National Capital Region. Despite this fact, the government has a need to function day to day processes even in the event of an emergency.

ACT feels that the legislation introduced today will serve as a test bed on how to operate in the event of such emergencies and provide a pilot for emergency preparedness in the context of natural disasters in other regions as well. The legislation will leave us better prepared to face the next event, and will also highlight the many benefit of telecommuting and will teach us what we need to do better.

ACT urges the Government Reform Committee and the full Congress to pass this legislation into law. We believe that the Chairman of the Government Reform Committee, Tom Davis (R–VA) is true champion of teleworking and we hope that he will align himself with this legislation.

ACT looks forward to working with Congress and with Congressmen Danny Davis (D–IL) and Tom Davis (R–VA) to see passage of this important bill.

The members of ACT represent a broad coalition of organizations—from major private-sector businesses and institutions to transportation agencies—but we all have one thing in common . . . We are all working cooperatively to make transportation work better by making it more efficient and less costly. ACT members understand that addressing the nation's transportation challenges requires investment in a comprehensive multi-faceted approach—not just the way we build our transportation systems, but the way we use our transportation system. Through programs and services that enhance and promote real transportation choices, ACT members and their partners are developing innovative solutions designed to ensure personal mobility, maximize the performance, security and safety of transportation facilities.

## PAYING TRIBUTE TO DR. PAUL SMITH

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. MCINNIS. Mr. Speaker, it is my privilege to pay tribute to Dr. Paul Smith and thank him for his work as Associate Chief of Staff for Community-Based Care. His years of commitment and dedication as a public servant are certainly commendable and worthy of recognition before this body of Congress and this nation today. As Paul celebrates his retirement, let it be known that I, along with my fellow Coloradans are grateful for all that he has accomplished during his years of service.

Paul received his degrees from the University of Southern Colorado in Pueblo, Colorado Northwestern University Medical School before going on to join the U.S. Army as a physician in 1991 and completed his Family Practice residency at Womack Army Medical Center, Fort Bragg, North Carolina. Paul became Board Certified in Family Practice and then served for four more years as an active duty Family Physician at Evans Army Community Hospital, Fort Carson, Colorado.

Paul entered private practice in Pueblo, Colorado in 1998 and enjoyed a busy practice until 2000 when he joined the Veterans Affairs Department as a staff physician at the Pueblo VA Community Based Outpatient Clinic in August. He is a member of the National Academy of Family Physicians and a 2001 graduate of the VA's Health Care Leadership Institute course.

In addition to his strength as a doctor Paul also excels in administration, as he was appointed Acting Chief of Staff of the Southern Colorado Health Care System (SCHCS) in 2000 and became Acting Director in 2002. Through his guidance and coordination of the integration of the SCHCS with the Denver VA Medical Center it has become a stalwart model of exemplary healthcare. This experience led to his current position as Associate Chief of Staff for Community-Based Care, overseeing seven Community Based Outpatient Clinics throughout the Eastern Colorado Health Care System.

Mr. Speaker, it is clear that Dr. Paul Smith has been an invaluable resource to the Colorado Health care. It is my honor to recognize his service and dedication before this body of Congress and this nation. I am grateful for the opportunity to work with dedicated public servants like Paul. On behalf of the citizens that have benefited from the hard work and commitment he has given to the Community-Base Care Program and the constituents it serves, I extend my appreciation for his years of dedicated service.

## ROCK ISLAND ARSENAL

### HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. REYES. Mr. Speaker, two weeks ago, I returned from my fifth trip to Iraq since the President declared an end to major combat operations last May. I was able to visit with our brave men and women in uniform, many of whom still endure daily rocket strikes. Their resolve and ability to maintain good spirits in the harshest of environments is a testament to the caliber of our armed forces and their dedication to their jobs.

Last week I learned of the death Lance Corporal Michael Torres, a young man from my district who was killed by enemy fire in Fallujah. A high school scholar, athlete, and young Texas State Guardsman, Lance Corporal Torres joined the Marine Corps to serve his country and his fellow Americans. His pride for our Nation and his willingness to serve is an inspiration for El Paso and our country.

Yesterday, along with my colleagues SOLOMON ORTIZ and GRACE NAPOLITANO, I joined Congressman LANE EVANS in touring the Rock Island Arsenal, located in his district. Congressman EVANS invited us to visit this premier facility of which he is so proud and to which he offers much support. At Rock Island, we were able to see armor kits being made for Humvees, and talk with the employees who have been tirelessly working 24 hours a day, 7 days a week, to produce armor kits for our Humvees that are in theater in Iraq. Having seen some of these armor kits being installed in Kuwait, and having talked to soldiers both installing the kits and receiving armored vehicles, I wanted to pass on their gratitude to the workers.

When our men and women in uniform initially crossed the burm in Iraq, fewer than 40 percent of their vehicles were armored. Today, thanks to the hard work of the men and women like those at Rock Island Arsenal, we are well on our way to having every vehicle armored. Since December 19th of last year, Rock Island has produced more than 2,500 full armor kits for Humvees that were sent to Iraq—many of which were installed in theater by the very men and women who built the armor. Our Nation owes great thanks to the men and women of Rock Island Arsenal. Their hard work and dedication is giving soldiers protection and enabling them to return home to their families.

While I am pleased that we are on our way to successfully armoring our vehicles, it does not make up for the fact that many, many men and women in uniform died when they could have been protected by properly armored vehicles. I am pleased that the House Armed Services Committee has been able to work in a bipartisan manner to give our soldiers and marines in theater better force protection measures, but this should not have had to happen after our soldiers were already in theater. When we use our forces, we need to ensure that they have adequate equipment, the best information and technology, and the best training possible.

Our men and women in uniform, like Lance Corporal Torres was, are among the best and the brightest that our Nation has to offer. They are our sons and daughters, our fathers and mothers, our friends and neighbors. As a veteran and as a proud American, I pledge to offer my continued support to ensure that our men and women in uniform have what they need to do their jobs and return home safely.

## PAYING TRIBUTE TO DEBBIE FORRESTER

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. MCINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Debbie Forrester and recognize her for her outstanding achievements playing handball over the years. She is an amazing handball athlete with a very impressive history of tournament play and it is with great satisfaction that I am able to acknowledge her accomplishments before this body of Congress and nation today.

Debbie started playing handball twenty-two years ago and since then has been national runner-up several times in both singles and doubles before winning the national championship last year. Debbie was ranked seventh in the world in the ''open'' division, and won three national titles in that division. As a longtime resident of Western Colorado, Debbie has used her handball skill to make friends and build community relationships among her fellow citizens. Debbie's husband, Kim, was also a nationally ranked handball player as well at one point, and the two of them entered many doubles tournaments together.

Mr. Speaker, it is clear that Debbie Forrester is an exceptional handball player, who uses her talents to educate and entertain interested citizens. Helping kids to get involved in sports is fundamental to a healthy childhood and I greatly appreciate Debbie's role in that process. It is my privilege to honor Debbie for her handball achievements and wish her the best in her future endeavors.

## CELEBRATING THE 100TH ANNIVERSARY OF THE WILMINGTON, CALIFORNIA CHAMBER OF COMMERCE

### HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Ms. HARMAN. Mr. Speaker, I am proud to celebrate today the 100th anniversary of the Wilmington Chamber of Commerce.

Wilmington is known, thanks to our local chamber, as the ''Heart of the Harbor,'' and is our nation's gateway to the Pacific and beyond. The business members of the Wilmington Chamber of Commerce serve one of our country's most vital economic engines, the Port of Los Angeles. The Wilmington Chamber of Commerce enhances the local business environment and helps to improve the quality of life in our community.

The chamber's work builds on a long and auspicious history for the local community. When Phineas Banning founded Wilmington in 1858, he could hardly have imagined the impact that this small community would eventually come to have on the rest of the world. The second post office in Los Angeles County was opened here, and Wilmington was the lifeline to 215 army posts scattered throughout Arizona and New Mexico during the Civil War. Wilmington was no less important during the Second World War, when Navy ships were built on Terminal Island and contributed to winning the war in the Pacific.

Mr. Speaker, I commend the Wilmington Chamber of Commerce on 100 years of remarkable service to the Wilmington community and the nation. I wish the Wilmington business community many more years of success.

## COMMENDATION TO RACHEL HEATH

### HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. GARRETT of New Jersey. Mr. Speaker, I am pleased to extend my warmest commendation to Rachel Heath for her nearly 22 years of service to the Borough of Franklin, New Jersey.

For the past 22 years, Rachel has worked for the people of Franklin in various capacities—as Welfare Director, Accounts Payable Clerk, Deputy Clerk, and, for the past eight years, Borough Clerk and Administrator.

Though the job titles varied, all of the positions shared one element in common: service to the citizens of Franklin. As Welfare Director, Rachel aided residents in obtaining much-needed assistance to help them through difficult times. As Accounts Payable Clerk, Rachel helped ensure that the borough's finances ran smoothly. And during her time in the borough Clerk's office—first as Deputy Clerk and then as Borough Clerk and Administrator—Rachel handled everything from pet licenses to marriage licenses, birth certificates to death certificates, voting registration to elections oversight.

While all of these accomplishments are certainly noteworthy, perhaps the most remarkable tribute to Rachel is that she did these things while raising four children and being a wife to her husband of almost 35 years, Thomas. In and of itself, the work of a wife and mother goes well beyond a full-time job, yet Rachel found the strength and ability to serve both her family and her community.

As Rachel concludes one chapter of her life and commences the next, I applaud her past service and wish her a future filled with continued success.

## PAYING TRIBUTE TO SANDY AND BUTCH LONGMORE

### HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, July 13, 2004*

Mr. MCINNIS. Mr. Speaker, it is a privilege to rise to pay tribute to Butch and Sandy Longmore of Montrose, Colorado. For many years, they have been taking foster children into their home and providing a positive influence in the foster children's lives. As foster parents, they have shown tremendous compassion and commitment to the Montrose youth. I am honored to acknowledge this exceptional couple before this body of Congress and this nation today.

Over the last twenty-two years, the Longmores have taken in over 150 foster children. Depending on the circumstances, the foster child stays for a period ranging from a week to several months. In seven different cases, the Longmores have adopted one of the children they were temporarily housing. In addition to their seven adopted children, the Longmores have four children of their own. In recognition of their efforts, the Colorado State Foster Parent Association recently honored the Longmores as the May recipients of the Colorado Foster Parents of the Month. Butch and Sandy are compassionate and caring individuals that obviously take great interest in providing care to young individuals that have difficult situations to overcome.

Mr. Speaker, Butch and Sandy Longmore have truly distinguished themselves as outstanding individuals. They understand the community's commitment to raising the next generation of citizens, and, in assuming that responsibility, have positively changed foster children's lives. I thank Butch and Sandy for their hard work and dedication and I wish them the all the best in their future endeavors.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 15, 2004 may be found in the Daily Digest of today's RECORD.

## MEETINGS SCHEDULED

### JULY 19

2 p.m.
Aging
To hold hearings to examine certain aspects of the new Medicare law aimed at assisting seniors of modest and low incomes, including principally the full drug benefit scheduled for 2006, and the ongoing prescription drug card transitional assistance.
SD–628

2:30 p.m.
Governmental Affairs
To hold hearings to examine the nominations of Neil McPhie, of Virginia, to be Chairman, and Barbara J. Sapin, of Maryland, to be a Member, both of the Merit Systems Protection Board.
SD–342

### JULY 20

9 a.m.
Governmental Affairs
Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee
To hold hearings to examine governmentwide workforce flexibilities available to federal agencies, focusing on those enacted in the Homeland Security Act, specifically their implementation, use by agencies, and training and education related to using the new flexibilities.
SD–342

9:30 a.m.
Commerce, Science, and Transportation
Business meeting to consider pending calendar business.
SR–253

Foreign Relations
To hold hearings to examine detours and disengagements regarding the road map to peace.
SD–419

Judiciary
Business meeting to consider pending calendar business.
SD–226

10 a.m.
Energy and Natural Resources
To hold hearings to examine S. 2590, provide a conservation royalty from Outer Continental Shelf revenues to establish the Coastal Impact Assistance Program, to provide assistance to States under the Land and Water Conservation Fund Act of 1965, to ensure adequate funding for conserving and restoring wildlife, to assist local governments in improving local park and recreation systems.
SD–366

Indian Affairs
To hold hearings to examine S. 2605, to direct the Secretary of the Interior and the heads of other Federal agencies to carry out an agreement resolving major issues relating to the adjudication of water rights in the Snake River Basin, Idaho.
SR–485

Health, Education, Labor, and Pensions
Substance Abuse and Mental Health Services Subcommittee
To hold hearings to examine performance and outcome measurement in substance abuse and mental health programs.
SD–430

Commission on Security and Cooperation in Europe
To hold hearings to examine the prospects for advancing democracy in Albania.
334 CHOB

2:30 p.m.
Banking, Housing, and Urban Affairs
To hold an oversight hearing to examine the Semi-Annual Monetary Policy Report of the Federal Reserve.
SH–216

### JULY 21

9 a.m.
Health, Education, Labor, and Pensions
Business meeting to consider proposed legislation authorizing funds for programs of the Vocational Education Act, S. 2158, 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. 2283, to extend Federal funding for operation of State high risk health insurance pools, S. 2493, to amend the Federal Food, Drug, and Cosmetic Act to protect the public health from the unsafe importation of prescription drugs and from counterfeit prescription drugs, H.R. 3908, to provide for the conveyance of the real property located at 1081 West Main Street in Ravenna, Ohio, S. Res. 389, expressing the sense of the Senate with respect to prostate cancer information, S. Con. Res. 119, recognizing that prevention of suicide is a compelling national priority, and certain pending nominations.
SD–430

9:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

Foreign Relations
To hold hearings to examine combating multilateral development bank corruption, focusing on the U.S. Treasury's role and internal efforts.
SD–419

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine regulation NMS and developments in market structure.
SD–538

Finance
To hold hearings to examine bridging the tax gap.
SD–215

Governmental Affairs
Business meeting to consider pending calendar business.
SD–342

Indian Affairs
Business meeting to consider pending calendar business; to be followed by a hearing to examine S. 519, to establish a Native American-owned financial entity to provide financial services to Indian tribes, Native American organizations, and Native Americans.
SR–485

Judiciary
To hold hearings to examine the nomination of Thomas B. Griffith, of Utah, to be United States Circuit Judge for the District of Columbia Circuit.
SD–226

2 p.m.
Armed Services
Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold joint hearings to examine the Pentagon and States' response to the needs of guard and reservists families.
SD–430

Indian Affairs
To hold an oversight hearing to examine the proposed reauthorization of the Indian Health Care Improvement Act.
SR–485

2:30 p.m.
Banking, Housing, and Urban Affairs
International Trade and Finance Subcommittee
To hold hearings to examine Islamic banking.
SD–538

Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine S. 738, to designate certain public lands in Humboldt, Del Norte, Mendocino, Lake, Napa, and Yolo Counties in the State of California as wilderness, to designate certain segments of the Black Butte River in Mendocino County, California as a wild or scenic river, S. 1614, to designate a portion of White Salmon River as a component of the National Wild and Scenic Rivers System, S. 2221, to authorize the Secretary of Agriculture to sell or exchange certain National Forest System land in the State of Oregon, S. 2253, 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. 2334, to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System, S. 2408, to adjust the boundaries of the Helena, Lolo, and Beaverhead-Deerlodge National Forests in the State of Montana, and S. 2622, to provide for the exchange of certain Federal land in the Santa Fe National Forest and certain non-Federal land in the Pecos National Historical Park in the State of New Mexico.
SD–366

### JULY 22

9 a.m.
Governmental Affairs
Investigations Subcommittee
To resume hearings to examine 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 the pharmaceuticals from foreign sources are counterfeit, expired, unsafe, or illegitimate, focusing on the extent to which

U.S. consumers can purchase dangerous and often addictive controlled substances from Internet pharmacy websites and the procedures utilized by the Bureau of Customs and Border Protection, the Drug Enforcement Administration, the United States Postal Service, and the Food and Drug Administration, as well as the private sector to address these issues.

SD–342

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine media ownership.

SR–253

Judiciary

Business meeting to consider pending calendar business.

SD–226

10 a.m.

Banking, Housing, and Urban Affairs

To continue hearings to examine regulation NMS and developments in market structure.

SD–538

Health, Education, Labor, and Pensions

To hold hearings to examine preparations for possible future terrorist attacks.

SD–430

Joint Economic Committee

To hold hearings to examine the demographics of health care, focusing on evidence regarding declining rates of chronic disability and assess the best opportunities for further health promotion.

SD–628

2:30 p.m.

Energy and Natural Resources

National Parks Subcommittee

To hold an oversight hearing to examine the implementation of the National Parks Air Tour Management Act of 2000 (Public Law 106–181).

SD–366

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings to examine space exploration of Saturn.

SR–253

SEPTEMBER 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.

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# *Daily Digest*

## HIGHLIGHTS

**House Committees ordered reported 34 sundry measures, including the following appropriations for fiscal year 2005: Labor, Health and Human Services, Education and Related Agencies; and the District of Columbia.**

# Senate

## *Chamber Action*

***Routine Proceedings, pages S8055–S8140***

**Measures Introduced:** Eight bills and one resolution were introduced, as follows: S. 2651–2658, and S. Res. 405. **Page S8118**

**Measures Reported:**

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.

S. 2610, to implement the United States-Australia Free Trade Agreement. **Page S8118**

**Measures Passed:**

***Honoring Former President Gerald R. Ford's 91st Birthday:*** Senate agreed to S. Res. 405, honoring former President Gerald R. Ford on the occasion of his 91st birthday and extending the best wishes of the Senate to former President Ford and his family. **Pages S8137, S8139–40**

***Retirement Plan Clarification:*** Committee on Finance was discharged from further consideration of S. 2589, to clarify the status of certain retirement plans and the organizations which maintain the plans, and the bill was then passed. **Page S8140**

***Helping Hands for Homeownership Act:*** Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of H.R. 4363, to facilitate self-help housing homeownership opportunities, clearing the measure for the President. **Page S8140**

**Constitutional Amendment on Marriage:** Senate continued consideration of the motion to proceed to consideration of S.J. Res. 40, proposing an amendment to the Constitution of the United States relating to marriage. **Pages S8061–90**

During consideration of this measure today, Senate also took the following action:

By 48 yeas to 50 nays (Vote No. 155), three-fifths of those Senators duly chosen and sworn, not having voted in the affirmative, Senate rejected the motion to close further debate on the motion to proceed to consideration of S.J. Res. 40. **Page S8090**

**American Jobs Creation Act—Agreement:** A unanimous consent agreement was reached providing that on Thursday, July 15, immediately following morning business, the pending motion to proceed to consideration of S.J. Res. 40 (listed above), be withdrawn, and the Majority Leader or his designee be recognized in order to move to proceed to 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; provided further, that the motion be agreed to and that Chairman Grassley then be immediately recognized in order to offer S. 1637, as passed by the Senate, as a substitute amendment; provided further, that Senator DeWine be recognized in order to offer a DeWine-Kennedy first degree amendment relating to the FDA and tobacco; further, that no other amendments be in order to the bill, and that there be 3 hours for debate equally divided on the amendment; further, that following the debate time, the Senate proceed to a vote in relation to the amendment at a time to be determined by the Majority Leader after consultation with

the Democratic Leader, and that immediately following disposition of that amendment, the substitute amendment be agreed to, the bill then be read a third time, and the Senate proceed to a vote on passage of the bill; further, that the Senate then insist on its amendment, request a conference with the House thereon, and the Chair then be authorized to appoint conferees on the part of the Senate with a ratio of 12 to 11. **Pages S8104–05**

**Appointments:**

***Advisory Committee on Student Financial Assistance:*** The Chair, on behalf of the President pro tempore, pursuant to Public Law 99–498, appointed the following individual as a member of the Advisory Committee on Student Financial Assistance: Clare M. Cotton of Massachusetts. **Page S8140**

**Messages From the House:** **Page S8117**

**Measures Referred:** **Page S8117**

**Measures Placed on Calendar:** **Page S8117**

**Measures Read First Time:** **Page S8117**

**Enrolled Bills Presented:** **Page S8117**

**Executive Communications:** **Pages S8117–18**

**Additional Cosponsors:** **Pages S8118–19**

**Statements on Introduced Bills/Resolutions:** **Pages S8119–37**

**Additional Statements:** **Pages S8113–17**

**Notices of Hearings/Meetings:** **Page S8138**

**Authority for Committees to Meet:** **Page S8138**

**Record Votes:** One record vote was taken today. (Total—155) **Page S8090**

**Adjournment:** Senate convened at 9:30 a.m., and adjourned at 9:18 p.m., until 9:30 a.m., on Thursday, July 15, 2004. (For Senate's program, see the remarks of the Majority Leader in today's Record on page S8140.)

# *Committee Meetings*

*(Committees not listed did not meet)*

## AMERICAN HOME FIRE SAFETY ACT

*Committee on Commerce, Science, and Transportation:* Committee concluded a hearing to examine home products fire safety issues, including a related measure, S. 1798, to provide for comprehensive fire safety standards for upholstered furniture, mattresses, bedclothing, and candles, after receiving testimony from Hal Stratton, Chairman, U.S. Consumer Product Safety Commission; John Dean, Maine State Fire Marshal, Augusta, on behalf of the National Association of State Fire Marshals; Norman Chapman, Inman Mills, Inman, South Carolina; Andy S. Counts, American Furniture Manufacturers Association, High Point, North Carolina; Robert Higgins, Candle-Lite, Inc., Columbus, Ohio, on behalf of the National Candle Association; and Al Klancnik, Serta, Inc., Itasca, Illinois.

## ADULT STEM CELL RESEARCH

*Committee on Commerce, Science, and Transportation:* Subcommittee on Science, Technology, and Space concluded a hearing to examine adult stem cell research issues, focusing on ethical, medical, and political implications, therapeutic and human cloning, and neurodegenerative disorders, including Parkinson's Disease, after receiving testimony from Michel F. Levesque, University of California at Los Angeles School of Medicine; Jean D. Peduzzi-Nelson, University of Alabama at Birmingham Department of Physiological Optics; Irving Weissman, Stanford University School of Medicine Department of Pathology, Stanford, California; Robert A. Goldstein, Juvenile Diabetes Research Foundation International, New York, New York; Laura Dominguez, San Antonio, Texas; Susan Fajt, Austin, Texas; and Dennis Turner, San Clemente, California.

## BUSINESS MEETING

*Committee on Energy and Natural Resources:* Committee ordered favorably reported the following bills:

S. 203, to open certain withdrawn land in Big Horn County, Wyoming, to locatable mineral development for bentonite mining, with an amendment in the nature of a substitute;

S. 931, to direct the Secretary of the Interior to undertake a program to reduce the risks from and mitigate the effects of avalanches on visitors to units of the National Park System and on other recreational users of public land, with an amendment in the nature of a substitute;

S. 1211, to further the purposes of title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992 by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, with an amendment in the nature of a substitute;

S. 2052, to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail, with an amendment in the nature of a substitute;

H.R. 265, to expand the boundary of the Mount Rainier National Park;

S. 2167, to establish the Lewis and Clark National Historical Park in the States of Washington and Oregon, with an amendment;

S. 2173, to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of

2000, with an amendment in the nature of a substitute;

S. 2285, to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah, with an amendment in the nature of a substitute;

S. 2287, to adjust the boundary of the Barataria Preserve Unit of Jean Lafitte National Historical Park and Preserve in the State of Louisiana, with an amendment;

S. 2460, to provide assistance to the State of New Mexico for the development of comprehensive State water plans, with an amendment in the nature of a substitute;

S. 2508, to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse, with an amendment;

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, with an amendment in the nature of a substitute;

S. 2543, to establish a program and criteria for National Heritage Areas in the United States, with an amendment in the nature of a substitute;

H.R. 1284, to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to increase the Federal share of the costs of the San Gabriel Basin demonstration project, with an amendment.

H.R. 1616, to authorize the exchange of certain lands within the Martin Luther King, Junior, National Historic Site for lands owned by the City of Atlanta, Georgia; and

H.R. 3768, to expand the Timucuan Ecological and Historic Preserve, Florida.

## FEDERAL LANDS

*Committee on Energy and Natural Resources:* Subcommittee on Public Lands and Forests concluded a hearing to examine S. 2317, to limit the royalty on soda ash; S. 2353, to reauthorize and amend the National Geologic Mapping Act of 1992; H.R. 1189; to increase the waiver requirement for certain local matching requirements for grants provided to American Samoa, Guam, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands; and H.R. 2010, to protect the voting rights of members of the Armed Services in elections for the Delegate representing American Samoa in the United States House of Representatives, after receiving testimony from David B. Cohen, Deputy Assistant Secretary for Insular Affairs, and P. Patrick Leahy, Associate Director for Geology, U.S. Geological Survey, both of the Department of the Interior; Robert G. Marvinney, Maine State Geologist, Augusta on behalf of the Association of American State Geologists; James C. Cobb, Kentucky State Geologist, and University of Kentucky, Lexington; Michael K. Burd, United Steelworkers Union Local 13214 FMC Wyoming Alkali Plant and Mine, Green River, Wyoming; John F. McDermid, American Natural Soda Ash Corporation, Washington, D.C.; and Marion Loomis, Wyoming Mining Association, Cheyenne.

## BUSINESS MEETING

*Committee on Finance:* Committee ordered favorably reported S. 2610, to implement the United States-Australia Free Trade Agreement.

Also, committee approved their recommendation for proposed legislation to implement the United States-Morocco Free Trade Agreement.

## PAKISTAN

*Committee on Foreign Relations:* Committee concluded a hearing to examine balancing reform and counterterrorism in Pakistan, focusing on U.S.-Pakistan relations and assess the Pakistan government's efforts to combat terrorism and implement reform, after receiving testimony from Teresita C. Shaffer, Center for Strategic and International Studies, and Marvin G. Weinbaum, Middle East Institute, both of Washington, D.C.; and Vali R. Nasr, Naval Postgraduate School, Monterey, California.

## BALKANS

*Committee on Foreign Relations:* Committee concluded a hearing to examine U.S. policy toward Southeast Europe, focusing on efforts by countries in the Balkans to normalize their military relations with the U.S. and NATO, and to ensure regional stability, after receiving testimony from D. Kathleen Stephens, Deputy Assistant Secretary of State for South Central Europe; Mira R. Ricardel, Acting Assistant Secretary of Defense for International Security Policy; James Dobbins, RAND International Security and Defense Policy Center, Arlington, Virginia; James C. O'Brien, The Albright Group LLC, Washington, D.C.; Ivan Vejvoda, Balkan Trust for Democracy, German Marshall Fund of the United States, Serbia and Montenegro; and Veton Surroi, KOHA Ditore, Pristina, Kosovo.

## BUSINESS MEETING

*Committee on Indian Affairs:* Committee ordered favorably reported the following business items:

S.J. Res. 41, commemorating the opening of the National Museum of the American Indian, with an amendment in the nature of a substitute;

S. 1529, to amend the Indian Gaming Regulatory Act to include provisions relating to the payment

and administration of gaming fees, with an amendment in the nature of a substitute;

S. 1530, to provide compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River, with amendments; and

H.R. 2912, to reaffirm the inherent sovereign rights of the Osage Tribe to determine its membership and form of government.

### AMERICAN INDIAN RELIGIOUS FREEDOM ACT

*Committee on Indian Affairs:* Committee concluded an oversight hearing to examine the American Indian Religious Freedom Act of 1978 (P.L. 95–341), after receiving testimony from Brian Pogue, Director, Bureau of Indian Affairs, Department of the Interior; Joel Holtrop, Deputy Chief, State and Private Forestry, Forest Service, Department of Agriculture; Suzan Shown Harjo, The Morning Star Institute, Washington, D.C.; Walter Echo-Hawk, Native American Rights Fund, Boulder, Colorado; Bernard Red Cherries, Jr., Northern Cheyenne Elk Society and Sundance Arrow, Valley, Washington; and Paul Bender, Arizona State University College of Law, Tempe.

### DRUG IMPORTATION

*Committee on the Judiciary:* Committee concluded a hearing to examine the implications of drug importation, focusing on the Prescription Drug Marketing Act of 1988, and on ways to make prescription drugs more affordable without jeopardizing patient safety or undermining incentives for the discovery of the next generation of therapies, and a related measure S. 2328, to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, after receiving testimony from Representative Sanders; Senators Nickles, Breaux, and Dorgan; William K. Hubbard, Associate Commissioner for Policy and Planning, and John Taylor, III, Associate Commissioner for Regulatory Affairs, both of the Food and Drug Administration, Department of Health and Human Services; Elizabeth G. Durant, Executive Director, Trade Compliance and Facilitation, Office of Field Operations at the Bureau of Customs and Border Protection, Department of Homeland Security; Rudolph W. Giuliani, Giuliani Partners LLC, New York, New York; Carmen A. Catizone, National Association of Boards of Pharmacy, Park Ridge, Illinois; Elizabeth A. Wennar, HealthInova, Manchester, Vermont, on behalf of United Health Alliance; Joanne Disch, AARP, Washington, D.C.; Stephen W. Schondelmeyer, University of Minnesota College of Pharmacy, Minneapolis; and Kathleen D. Jaeger, Generic Pharmaceutical Association, Arlington, Virginia.

### FEDERAL ELECTION COMMISSION

*Committee on Rules and Administration:* Committee concluded an oversight hearing to examine the Federal Election Commission, focusing on their enforcement and disclosure process relative to campaign finance, after receiving testimony from Senators McCain and Feingold; Bradley A. Smith, Chairman, Ellen L. Weintraub, Vice Chair, both of the Federal Election Commission; and Trevor Pott, Caplin and Drysdale, Benjamin L. Ginsburg, Patton Boggs LLP, and Robert F. Bauer, Perkins Coie LLP, all of Washington, D.C.

# House of Representatives

## *Chamber Action*

**Measures Introduced:** 7 public bills, H.R. 4829–4835, and; 5 resolutions, H. Con. Res. 472–473, and H. Res. 716–718 were introduced.

**Pages H5792–93**

**Additional Cosponsors:** **Page H5793**

**Reports Filed:** Reports were filed today as follows:

H.R. 4654, to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, (H. Rept. 108–603);

H. Res. 715, providing for consideration of the bill (H.R. 4818) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005 (H. Rept. 108–604);

H.R. 2715, to provide for necessary improvements to facilities at Yosemite National Park (H. Rept. 108–605); and

H.R. 2023, to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, amended (H. Rept. 108–606, Pt. 1).

**Page H5792**

**Speaker Pro Tempore:** Read a letter from the Speaker wherein he appointed Representative Miller of Florida to act as Speaker Pro Tempore for today. **Page H5657**

**Chaplain:** The prayer was offered today by Rev. Danny Cochran, Pastor, Holly Creek Baptist Church in Chatsworth, Georgia. **Page H5657**

**Suspensions:** The House agreed to suspend the rules and pass the following measures:

***SUTA Dumping Prevention Act of 2003:*** H.R. 3463, amended, to amend titles III and IV of the Social Security Act to improve the administration of unemployment taxes and benefits; **Pages H5669–72**

***Urging the President to resolve the disparate treatment of direct and indirect taxes presently provided by the World Trade Organization:*** H. Res. 705, urging the President to resolve the disparate treatment of direct and indirect taxes presently provided by the World Trade Organization, by a 2/3 yea and nay vote of 423 yeas to 1 nay, Roll No. 372; **Pages H5672–75, H5687–88**

***Customs Border Security Act of 2004:*** H.R. 4418, amended, to authorize appropriations for fiscal years 2005 and 2006 for the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement of the Department of Homeland Security, for the Office of the United States Trade Representative, for the United States International Trade Commission, by a ⅔ recorded vote of 341 ayes to 85 noes, Roll No. 373; **Pages H5675–82, H5688–89**

***Urging the Government of the People's Republic of China to improve its protection of intellectual property rights:*** H. Res. 576, amended, urging the Government of the People's Republic of China to improve its protection of intellectual property rights, by a ⅔ yea and nay vote of 416 yeas to 3 nays, Roll No. 374; **Pages H5682–87, H5689–90**

***Commending the Government of Portugal and the Portuguese people for their support in the effort to combat terrorism:*** H. Res. 688, amended, commending the Government of Portugal and the Portuguese people for their long-standing friendship, stalwart leadership, and unwavering support of the United States in the effort to combat international terrorism; **Pages H5763–65**

***Jamestown 400th Anniversary Commemorative Coin Act of 2003:*** H.R. 1914, amended, to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement; **Pages H5775–77**

***Marine Corps 230th Anniversary Commemorative Coin Act:*** H.R. 3277, amended, 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; **Pages H5777–79**

***John Marshall Commemorative Coin Act:*** H.R. 2768, amended, to require the Secretary of the Treasury to mint coins in commemoration of Chief Justice John Marshall; and **Pages H5779–81**

***Amending the District of Columbia College Access Act of 1999:*** H.R. 4012, amended, to amend the District of Columbia College Access Act of 1999 to permanently authorize the public school and private school tuition assistance programs established under the Act. **Pages H5781–83**

Agreed to amend the title so as to read: to amend the District of Columbia College Access Act of 1999 to reauthorize for 5 additional years the public school and private school tuition assistance programs established under the Act. **Page H5783**

**Suspensions—Proceedings Postponed:** The House completed debate on the following measures under suspension of the rules. Further proceedings were postponed until Thursday, July 15.

***Viet Nam Human Rights Act of 2004:*** H.R. 1587, amended, to promote freedom and democracy in Viet Nam; **Pages H5741–52**

***Concerning the importance of the distribution of food in schools to hungry or malnourished children around the world:*** S. Con. Res. 114, concerning the importance of the distribution of food in schools to hungry or malnourished children around the world; **Pages H5752–57**

***Reaffirming unwavering commitment to the Taiwan Relations Act:*** H. Con. Res. 462, reaffirming unwavering commitment to the Taiwan Relations Act; **Pages H5757–61**

***Expressing the sense of the House in support of full membership of Israel in the Western European and Others Group at the United Nations:*** H. Res. 615, amended, expressing the sense of the House of Representatives in support of full membership of Israel in the Western European and Others Group (WEOG) at the United Nations; **Pages H5761–65**

***Northern Uganda Crisis Response Act:*** S. 2264, to require a report on the conflict in Uganda; and **Pages H5765–67**

***Deploring the misuse of the International Court of Justice by a majority of the United Nations General Assembly:*** H. Res. 713, amended, deploring the misuse of the International Court of Justice by a majority of the United Nations General Assembly for a narrow political purpose, the willingness of the International Court of Justice to acquiesce in an

effort likely to undermine its reputation and interfere with a resolution of the Palestinian-Israeli conflict. **Pages H5767–77**

**United States-Australia Free Trade Implementation Act:** The House passed H.R. 4759, to implement the United States-Australia Free Trade Agreement, by a yea and nay vote of 314 yeas to 109 nays and 1 voting "present", Roll No. 375.

**Pages H5660–69, H5690–H5720**

H. Res. 712, the rule providing for consideration of the bill was agreed to by a yea and nay vote of 377 yeas to 89 nays, Roll No. 371. **Page H5687**

**Project BioShield Act of 2003:** The House passed S. 15, to amend the Public Health Service Act to provide protections and countermeasures against chemical, radiological, or nuclear agents that may be used in a terrorist attack against the United States by giving the National Institutes of Health contracting flexibility, infrastructure improvements, and expediting the scientific peer review process, and streamlining the Food and Drug Administration approval process of countermeasures, by a yea and nay vote of 414 yeas to 2 nays, Roll No. 376—clearing the measure for the President. **Pages H5721–41**

The bill was considered under a unanimous consent agreement that was reached on Tuesday, July 13.

**Amendments:** Amendments ordered printed pursuant to the rule appear on pages H5793–94.

**Quorum Calls—Votes:** Five yea and nay votes and one recorded vote developed during the proceedings of today and appear on pages H5687, H5687–88, H5688–89, H5689–90, H5720, H5740–41. There were no quorum calls.

**Adjournment:** The House met at 10 a.m. and adjourned at 11:27 p.m.

# *Committee Meetings*

### LABOR, HHS, EDUCATION AND RELATED AGENCIES AND THE DISTRICT OF COLUMBIA APPROPRIATIONS

*Committee on Appropriations:* Ordered reported the following appropriations for fiscal year 2005: Labor, Health and Human Services, Education and Related Agencies; and the District of Columbia.

### VOCATIONAL AND TECHNICAL EDUCATION FOR THE FUTURE ACT

*Committee on Education and the Workforce:* Subcommittee on Education Reform approved for full Committee action, as amended, H.R. 4496, Vocational and Technical Education for the Future Act.

### RADIO FREQUENCY IDENTIFICATION TECHNOLOGY FUTURE

*Committee on Energy and Commerce:* Subcommittee on Commerce, Trade and Consumer Protection held a hearing entitled "Radio Frequency Identification (REID) Technology: What the Future Holds for Commerce, Security, and the Consumer." Testimony was heard from public witnesses.

### ISSUANCE OF SUBPOENAS—E-RATE PROGRAM INVESTIGATION

*Committee on Energy and Commerce:* Subcommittee on Oversight and Investigations approved a motion authorizing the issuance of a subpoena ad testificandum to each of the following individuals: William Holman; Judy Green; George Marchelos; and Thomas J. Burger, in connection with its investigation of the E-Rate Program.

### MULTICHANNEL VIDEO PROGRAMMING DISTRIBUTORS AND CONSUMER CHOICE

*Committee on Energy and Commerce:* Subcommittee on Telecommunications and the Internet held a hearing entitled "Competition and Consumer Choice in the MVPD Marketplace—Including an Examination of Proposals to Expand Consumer Choice, Such as A La Carte and Themed-Tiered Offerings." Testimony was heard from public witnesses.

### USDA'S EXPANDED CATTLE SURVEILLANCE PROGRAM

*Committee on Government Reform and the Committee on Agriculture:* held a joint hearing entitled "A Review of USDA's Expanded BSE Cattle Surveillance Program." Testimony was heard from the following officials of the USDA: Ann M. Veneman, Secretary; and Phyllis K. Fong, Inspector General; and public witnesses.

### IMPROVING IG FUNCTIONALITY AND INDEPENDENCE

*Committee on Government Reform:* Subcommittee on Government Efficiency and Financial Management held a hearing entitled "Improving IG Functionality and Independence—A Review of Legislative Ideas." Testimony was heard from Gaston L. Gianni, Jr., Inspector General, FDIC; Barry R. Snyder, Inspector General, Federal Reserve Board, Federal Reserve System; and J. Russell George, Inspector General, Corporation for National and Community Service.

### HEALTH INFORMATICS

*Committee on Government Reform:* Subcommittee on Technology, Information Policy, Intergovernmental Relations and the Census held a hearing entitled "Health Informatics: What is the Prescription for Success in Intergovernmental Information Sharing

and Emergency Response?" Testimony was heard from Karen S. Evans, Administrator, E-Government and Information Technology, OMB; David A. Power, Director, Information Technology Management Issues, GAO; Claire V. Broome, M.D., Senior Advisor to the Director for Integrated Health Information Systems, Centers for Disease Control and Prevention, Department of Health and Human Services; former Speaker of the House of Representatives Newt Gingrich of Georgia; and public witnesses.

## ISLAM IN ASIA

*Committee on International Relations:* Subcommittee on Asia and the Pacific held a hearing on Islam in Asia. Testimony was heard from public witnesses.

## MARRIAGE PROTECTION ACT

*Committee on the Judiciary:* Ordered reported, as amended, H.R. 3313, Marriage Protection Act of 2003.

## MISCELLANEOUS MEASURES

*Committee on Resources:* Ordered reported the following measures: H. Res. 431, Honoring the achievements of Siegfried and Roy, recognizing the impact of their efforts on the conservation of endangered species both domestically and worldwide, and wishing Roy Horn a full and speedy recovery; H.R. 1630, amended, Petrified Forest National Park Expansion Act of 2003; H.R. 2129, amended, Taunton, Massachusetts Special Resources Study Act; H.R. 2400, To amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam; H.R. 2457, amended, Castillo De San Marcos National Monument Preservation and Education Act; H.R. 2960, To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Brownsville Public Utility Board water recycling and desalinization project; H.R. 3056, amended, To clarify the boundaries of the John H. Chafee Coast Barrier Resources System Cedar Keys Unit P25 on Otherwise Protected Area P25P; H.R. 3257, amended, Western Reserve Heritage Area Study Act; H.R. 3334, amended, Riverside-Corona Feeder Authorization Act; H.R. 3427, amended, Craig Recreation Land Purchase Act; H.R. 3479, amended, Brown Tree Snake Control and Eradication Act of 2003; H.R. 3589, amended, To create the Office of Chief Financial Officer of the Government of the Virgin Islands; H.R. 3597, amended, To authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on the Alder Creek water storage and conservation project in El Dorado County, California; H.R. 3954, amended, Rancho El Cajon Boundary Reconciliation Act; H.R. 4010, National Geologic Mapping Reauthorization Act of 2004; H.R. 4027, amended, To authorize the Secretary of Commerce to make available to the University of Miami property under the administrative jurisdiction of the National Oceanic and Atmospheric Administration on Virginia Key, Florida, for use by the University for a Marine Life Science Center; H.R. 4045, amended, To authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River; H.R. 4170, amended, Department of the Interior Volunteer Recruitment Act of 2004; H.R. 4459, Llagas Reclamation Groundwater Remediation Initiative; H.R. 4481, amended, Wilson's Creek National Battlefield Boundary Adjustment Act of 2004; H.R. 4492, amended, To amend the Omnibus Parks and Public Lands Management Act of 1966 to extend the authorization for certain national heritage areas; H.R. 4494, amended, Grey Towers National Historic Site Act of 2004; H.R. 4508, To amend the National Parks and Recreation Act of 1978 to require the Secretary to permit continued use and occupancy of certain privately owned cabins in the Mineral King Valley in the Sequoia National Park; H.R. 4606, amended, Southern California Groundwater Remediation Act; H.R. 4617, amended, To amend the Small Tracts Act to facilitate the exchange of small tracts of land; H.R. 4625, Soda Ash Royalty Reduction Act of 2004; S. 943, To authorize the Secretary of the Interior to enter into 1 or more contracts with the city of Cheyenne, Wyoming, for the storage of the city's water in the Kendrick Project, Wyoming; S. 1003, To clarify the intent of Congress with respect to the continued use of established commercial outfitter hunting camps on the Salmon River; S. 1537, To direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery; S. 1576, Harpers Ferry National Historical Park Boundary Revision Act of 2003; and S. 1721, American Indian Probate Reform Act of 2003.

## FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS FISCAL YEAR 2005

*Committee on Rules:* Granted, by voice vote, an open rule providing 1 hour of general debate on H.R. 4818, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the bill. Under the rules of the House the bill shall be read for amendment by paragraph. The rule waives points of order against provisions in the bill for failure to comply with clause 2 of rule XXI (prohibiting unauthorized appropriations or legislative provisions in an appropriations bill), except as specified in the resolution. The rule authorizes the Chair to

accord priority in recognition to Members who have preprinted their amendments in the Congressional Record. Finally, the rule provides one motion to recommit with or without instructions.

## TRADE FAIRNESS

*Committee on Small Business:* Held a hearing on Trade Fairness: How We Can Make Our Trade Laws Work for America's Small Businesses, including discussion of H.R. 3716, to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket countries. Testimony was heard from Representatives English and Davis of Alabama; and public witnesses.

## OVERSIGHT—IN-LINE EXPLOSIVE DETECTION SYSTEMS

*Committee on Transportation and Infrastructure:* Subcommittee on Aviation held an oversight hearing on In-Line Explosive Detection Systems: Financing and Deployment. Testimony was heard from Randy Null, Acting Assistant Administrator, Aviation Operations, Transportation Security Administration, Department of Homeland Security; and public witnesses.

## U.S.-MOROCCO FREE TRADE AGREEMENT IMPLEMENTATION ACT

*Committee on Ways and Means:* Approved the draft implementing proposal on the United States-Morocco Free Trade Agreement Implementation Act.

## GLOBAL WAR ON TERRORISM—CRITICAL NEED FOR INTERROGATION

*Permanent Select Committee on Intelligence:* Met in executive session to hold a hearing on The Critical Need for Interrogation in the Global War on Terrorism. Testimony was heard from departmental witnesses.

### Joint Meetings

## COAST GUARD AND MARITIME TRANSPORTATION ACT

*Conferees* agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 2443, to authorize appropriations for the Coast Guard for fiscal year 2004, and to amend various laws administered by the Coast Guard.

## APPROPRIATIONS—DEPARTMENT OF DEFENSE

*Conferees* agreed to file a conference report on the differences between the Senate and House passed versions of H.R. 4613, making appropriations for the Department of Defense for the fiscal year ending September 30, 2005.

## COMMITTEE MEETINGS FOR THURSDAY, JULY 15, 2004

*(Committee meetings are open unless otherwise indicated)*

### Senate

*Committee on Appropriations:* Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine preventing chronic disease through healthy lifestyles, 9:30 a.m., SD–192.

Full Committee, business meeting to mark up proposed legislation making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2005, and proposed legislation making appropriations for the Legislative Branch for the fiscal year ending September 30, 2005, 2 p.m., SD–106.

*Committee on Armed Services:* to receive a closed briefing from the Department of Defense regarding International Committee of the Red Cross reports on U.S. military detainee operations in Iraq, 9:30 a.m., S–407, Capitol.

*Committee on Banking, Housing, and Urban Affairs:* to hold hearings to examine regulation of the hedge fund industry, 10 a.m., SD–538.

Full Committee, to hold hearings to examine the nominations of Stuart Levey, of Maryland, to be Under Secretary of the Treasury for Enforcement, Juan Carlos Zarate, of California, to be Assistant Secretary of the Treasury for Terrorist Financing and Financial Crimes, and Carin M. Barth, of Texas, to be Chief Financial Officer, Department of Housing and Urban Development, 2:30 p.m., SD–538.

*Committee on Commerce, Science, and Transportation:* Subcommittee on Communications, to hold hearings to examine implementation of the Nielsen local people meter TV rating system, 9:30 a.m., SR–253.

*Committee on Energy and Natural Resources:* Subcommittee on National Parks, to hold hearings to examine S. 1852, to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin, S. 2142, to authorize appropriations for the New Jersey Coastal Heritage Trail Route, S. 2181, to adjust the boundary of Rocky Mountain National Park in the State of Colorado, S. 2374, to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma; S. 2397 and H.R. 3706, bills to adjust the boundary of the John Muir National Historic Site, S. 2432, to expand the boundaries of Wilson's Creek Battlefield National Park, S. 2567, to adjust the boundary of Redwood National Park in the State of California, H.R. 1113, to authorize an exchange of land at Fort Frederica National Monument, and S. Con. Res. 121, supporting the goals and ideals of the World Year of Physics, 2:30 p.m., SD–366.

*Committee on Foreign Relations:* to hold hearings to examine a report on the latest round of six-way talks regarding nuclear weapons in North Korea, 9:30 a.m., SD–419.

Subcommittee on International Economic Policy, Export and Trade Promotion, to hold hearings to examine

the Gulf of Guinea and U.S. strategic energy policy, 1 p.m., SD–419.

Full Committee, to hold a closed briefing on Iraq, 3 p.m., S–116, Capitol.

*Committee on Governmental Affairs:* Permanent Subcommittee on Investigations, to hold hearings to examine current enforcement of key provisions in the Patriot Act combating money laundering and foreign corruption, using a single case study involving Riggs Bank, focusing on Riggs' anti-money laundering program, administration of accounts associated with senior foreign political figures and their family members, and interactions with its primary regulator, the Office of the Comptroller of the Currency, 9 a.m., SD–342.

*Committee on Health, Education, Labor, and Pensions:* Subcommittee on Children and Families, to hold hearings to examine Pell grants for primary education, 10 a.m., SD–430.

*Committee on the Judiciary:* business meeting to consider pending calendar business, 2 p.m., SD–226.

*Select Committee on Intelligence:* to hold closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

*Special Committee on Aging:* to hold hearings to examine medical liability in long term care, 2 p.m., SD–628.

## House

*Committee on Appropriations,* Subcommittee on Transportation, Treasury and Independent Agencies, to mark up the Transportation, Treasury and Independent Agencies appropriations for fiscal year 2005, time to be announced, 2358 Rayburn.

*Committee on Armed Services,* hearing on Army Transformation: Implications for the Future, 9 a.m., and to mark up the following resolutions: H. Con. Res. 472, Expressing the sense of Congress that the apprehension, detention, and interrogation of terrorists are fundamental elements in the successful prosecution of the Global War on Terrorism and the protection of the lives of United States citizens at home and abroad; and H. Res. 689, Of inquiry requesting the President and directing certain other Federal officials to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the President and those officials relating to the treatment of prisoners or detainees in Iraq, Afghanistan, or Guantanamo Bay, 3 p.m., 2118 Rayburn.

*Committee on Education and the Workforce,* Subcommittee on Workforce Protections, hearing on H.R. 1329, Recreational Marine Employment Act of 2003, 10:30 a.m., 2175 Rayburn.

*Committee on Energy and Commerce,* Subcommittee on Energy and Air Quality, hearing entitled ''The Status of the U.S. Refining Industry,'' 11 a.m., 2322 Rayburn.

*Committee on Financial Services,* Subcommittee on Oversight and Investigations, hearing entitled ''Diversity in the Financial Services Industry and Access to Capital for Minority-Owned Businesses: Challenges and Opportunities,'' 10 a.m., 2128 Rayburn.

*Committee on International Relations,* to mark up H. Res. 699, Directing the Secretary of State to transmit to the House of Representatives documents in the possession of the Secretary of State relating to the treatment of prisoners and detainees in Iraq, Afghanistan, and Guantanamo Bay, 3 p.m., 2172 Rayburn.

Subcommittee on Europe, hearing on Transatlantic Relations: A Post-Summit Assessment, 10:15 a.m., 2172 Rayburn.

*Committee on the Judiciary,* Subcommittee on Courts, the Internet, and Intellectual Property, oversight hearing entitled ''Internet Streaming of Radio Broadcasts: Balancing the Interests of Sound Recording Copyright Owners with those of Broadcasters,'' 10 a.m., 2141 Rayburn.

*Committee on Resources,* Subcommittee on Energy and Mineral Resources, oversight hearing entitled ''Advances in Technology: Innovations in the Domestic Energy and Mineral Sector,'' 2 p.m., 1334 Longworth.

Subcommittee on Forests and Forest Health, oversight hearing on Restoring Forests after Catastrophic Events, 11 a.m., 1324 Longworth.

Subcommittee on National Parks, Recreation and Public Lands, hearing on the following bills: H.R. 4066, Chickasaw National Recreation Area Land Exchange Act of 2004; H.R. 4469, Angel Island Immigration Station Restoration and Preservation Act; and H.R. 4579, To modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, 10 a.m., 1334 Longworth.

*Committee on Science,* Subcommittee on Environment, Technology and Standards, hearing on The National Oceanic and Atmospheric Administration Organic Acts, 2 p.m., 2318 Rayburn.

Subcommittee on Space and Aeronautics, hearing on NASA Prizes, 10 a.m., 2318 Rayburn.

*Committee on Small Business,* Subcommittee on Workforce, Empowerment, and Government Programs and the Subcommittee on Benefits of the Committee on Veterans' Affairs, joint hearing entitled ''Excellence in Action: Government Support of Disabled Veteran-Owned Business,'' 2 p.m., 311 Cannon.

*Committee on Transportation and Infrastructure,* Subcommittee on Water Resources and Environment, to mark up the following bills: H.R. 784, Water Quality Investment Act of 2003; H.R. 4470, to amend the Federal Water Pollution Act to extend the authorization of appropriations for the Lake Pontchartrain Basin Restoration Program; H.R. 4688, To amend the Federal Water Pollution Control Act to reauthorize the Chesapeake Bay Program; H.R. 4731, To amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program; and H.R. 4794, To amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act to extend the authorization of appropriations, 9:30 a.m., followed by an oversight hearing on Louisiana Coastal Area-Addressing Decades of Coastal Erosion, 10 a.m., 2167 Rayburn.

*Committee on Ways and Means,* Subcommittee on Social Security, to mark up H.R. 2971, Social Security Number Privacy and Identity Theft Prevention Act of 2003, 12:30 p.m., B–318 Rayburn.

Subcommittee on Oversight, hearing to Review the IRS Enforcement of the Reporting of Tip Income, 10:15 a.m., 1100 Longworth.

*Permanent Select Committee on Intelligence,* Subcommittee on Human Intelligence, Analysis and Counterintelligence, executive, briefing on Counterintelligence: People's Republic of China, 11 a.m., H–405 Capitol.

## Joint Meetings

*Conference:* meeting of conferees on H.R. 3550, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, 3 p.m., 2167 RHOB.

*Next Meeting of the* SENATE

9:30 a.m., Thursday, July 15

Senate Chamber

**Program for Thursday:** After the transaction of any morning business (not to extend beyond 60 minutes), Senate will consider H.R. 4520, American Jobs Creation Act (as provided under the order of July 15, 2004). Also, Senate will consider H.R. 4759, United States-Australia Free Trade Agreement Implementation Act.

*Next Meeting of the* HOUSE OF REPRESENTATIVES

10 a.m., Thursday, July 15

House Chamber

**Program for Thursday:** Rolled votes on Suspensions:

(1) H.R. 1587, Viet Nam Human Rights Act of 2003;

(2) S. Con. Res. 114, concerning the importance of the distribution of food in schools to hungry or malnourished children around the world;

(3) H. Con. Res. 462, reaffirming unwavering commitment to the Taiwan Relations Act;

(4) H. Res. 615, expressing the sense of the House in support of full membership of Israel in the Western European and Others Group at the United Nations;

(5) S. 2264, Northern Uganda Crisis Response Act;

(6) H. Res. 713, deploring the misuse of the International Court of Justice by a majority of the United Nations General Assembly;

Consideration of H.R. 4818, Foreign Operations, Export Financing, and Related Programs Appropriations Act for FY05 (open rule, one hour of general debate).

## Extensions of Remarks, as inserted in this issue

HOUSE

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